
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 670 Session of
1999

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MARCH 24, 1999

AS AMENDED ON SECOND CONSIDERATION, NOVEMBER 8, 1999

AN ACT

1 Relating to the licensure and regulation of pediatric extended
2 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 health and safety standards
14 for pediatric extended care centers in order to assure that the
15 centers provide appropriate care.

16 Section 3. Definitions.

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

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

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

29 "Medical records." Data from all episodes of care and
30 treatment of the child which contains:

(1) sufficient information to identify the patient clearly, to justify the diagnosis and treatment and to document the results accurately; and

(2) notes by authorized pediatric extended care center staff or contract staff regarding the care and services delivered to the patient while under the care of the pediatric extended care center.

"Medically dependent" or "technologically dependent child."

A child eight years of age or younger who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by or under the direct supervision of, a licensed registered nurse.

"Operator." Any of the following that is responsible for the overall operation of a pediatric extended care center:

(1) An individual.

(2) A trust or an estate.

(3) A partnership.

(4) An association.

(5) A corporation.

(6) A political subdivision or an instrumentality of a political subdivision.

(7) ~~The Commonwealth or an~~ AN instrumentality of the Commonwealth.

"Owner." An operator.

"Pediatric extended care center." Any building or buildings, or other place, whether operated for-profit or not-for-profit, which undertakes through its ownership or management to provide basic nonresidential services to more than six medically dependent or technologically dependent children who are not

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1 related to the owner or operator by blood, marriage or adoption
2 and who require such services. Prerequisites for admission are a
3 prescription from the child's attending physician and consent of
4 a parent or legal guardian.

5 "PECC." A pediatric extended care center.

6 "Supportive services" or "contracted services." The term
7 includes, but is not limited to, speech therapy, occupational
8 therapy, physical therapy, pharmaceutical services, social work,
9 developmental, child life and psychological services.

10 Section 4. PECC licensure.

11 (a) Licensing.--The facilities to be licensed by the
12 department shall include all pediatric extended care centers
13 which are not otherwise exempt as provided by subsection (b).

14 ~~(b) Exemption. The following shall not be required to~~ <—
15 ~~obtain a license under this act:~~

16 ~~(1) A facility licensed under:~~

17 ~~(i) Article IX or X of the act of June 13, 1967~~

18 ~~(P.L.31, No.21), known as the Public Welfare Code; or~~

19 ~~(ii) Chapter 8 of the act of July 19, 1979 (P.L.130,~~
20 ~~No.48), known as the Health Care Facilities Act.~~

21 ~~(2) A school district.~~

22 (B) EXEMPTION.-- <—

23 (1) THE FOLLOWING ARE NOT REQUIRED TO OBTAIN A LICENSE
24 UNDER THIS ACT:

25 (I) A FACILITY LICENSED UNDER:

26 (A) ARTICLE IX OR X OF THE ACT OF JUNE 13, 1967

27 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE; OR

28 (B) CHAPTER 8 OF THE ACT OF JULY 19, 1979

29 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES
30 ACT.

1 (II) A SCHOOL DISTRICT.

2 (2) AN ENTITY WHICH IS EXEMPT UNDER PARAGRAPH (1)(I) IS
3 NOT PROHIBITED FROM OBTAINING A LICENSE UNDER THIS ACT.

4 Section 5. License required.

5 ~~It is unlawful to operate or maintain a pediatric extended~~ <—
6 ~~care center without first obtaining from the department a~~
7 ~~license authorizing such operation.~~ The department is
8 responsible for licensing pediatric extended care centers in
9 accordance with the provisions of this act.

10 Section 6. Application for license; fees.

11 (a) Submission to department.--Any person desiring to secure
12 a license to maintain and operate a PECC must submit an
13 application to the department upon forms prepared and furnished
14 by it, containing information the department considers necessary
15 to determine that the operator and the PECC meet the
16 requirements of licensure under this act and the regulations
17 relating to licensure. Application for renewal of a license must
18 be made upon forms prepared and furnished by the department in
19 accordance with the regulations of the department. The
20 application must include the license fee. The application must
21 include evidence that a bond has been posted by the applicant.

22 (b) Proof of insurance.--The applicant for licensure must
23 furnish proof of adequate liability insurance coverage or
24 protection.

25 (c) Fees.--

26 (1) The annual regular license fee required of a PECC
27 shall be in an amount determined by the department to be
28 sufficient to cover the department's costs in carrying out
29 its responsibilities under this act. Until the department
30 changes the fee by regulation, the annual license fee shall

1 be \$500.

2 (2) The provisional license fee shall be as follows:

3 ~~Provisional 1 \$500.~~ <—

4 ~~Provisional 2 \$700.~~

5 ~~Provisional 3 \$900.~~

6 ~~Provisional 4 \$1,100.~~

7 FIRST PROVISIONAL \$500. <—

8 SECOND PROVISIONAL \$700.

9 THIRD PROVISIONAL \$900.

10 FOURTH PROVISIONAL \$1,100.

11 Section 7. Issuance of license.

12 (a) Standards.--The department shall issue a license to an
13 operator when it is satisfied that the following standards have
14 been met:

15 (1) The operator is a responsible person.

16 (2) The place to be used by a PECC is adequately
17 constructed, equipped, maintained and operated to safely and
18 efficiently render the services offered.

19 (3) The PECC provides safe and efficient services which
20 are adequate for the care, treatment and comfort of the
21 patients or residents of the facility.

22 (4) There is substantial compliance with the
23 requirements of this act and regulations promulgated by the
24 department under this act.

25 (b) Premises to be licensed.--Separate licenses are required
26 for pediatric extended care centers maintained on separate
27 premises, even though they are operated under the same
28 management. Separate licenses are required for separate
29 buildings on the same premises.

30 (c) Display of license.--The license shall be displayed in a

1 conspicuous place inside the pediatric extended care center.

2 (d) License transfer.--A license shall be valid only in the
3 possession of the operator to whom it is issued and shall not be
4 subject to sale, assignment or other transfer, voluntary or
5 involuntary nor shall a license be valid for any premises other
6 than that for which originally issued.

7 (e) Facility capacity.--Any license granted by the
8 department shall state the maximum capacity of the facility, the
9 date the license was issued, the expiration date of the license
10 and any other information deemed necessary by the department.
11 The department may determine, by regulation, a maximum patient
12 capacity which may not be exceeded by a PECC.

13 Section 8. Provisional license.

14 If there are numerous deficiencies or a serious specific
15 deficiency in compliance with applicable statutes, regulations
16 or ordinances, the department may issue a provisional license
17 for a specified period of not more than six months, subject to
18 renewal three times at the discretion of the department, if the
19 department finds all of the following:

20 (1) The applicant is taking appropriate steps to correct
21 the deficiencies in accordance with a timetable submitted by
22 the applicant and agreed upon by the department.

23 (2) There is no cyclical pattern of deficiencies over a
24 period of two or more years.

25 Section 9. Expiration of license; renewal.

26 A license issued for the operation of a PECC, unless sooner
27 suspended or revoked, shall expire one year after the date of
28 issuance. At least 60 days before the expiration date, an
29 application for renewal must be submitted to the department. The
30 department shall renew the license, upon the filing of an

1 application on forms furnished by the department, if the
2 applicant has first met the requirements established under this
3 act and regulations promulgated pursuant to this act. The PECC
4 must file with the application satisfactory proof of financial
5 ability to operate and conduct the facility in accordance with
6 this act.

7 Section 10. Reasons for revocation or nonrenewal of license.

8 The department may refuse to renew a license or may suspend
9 or revoke or limit a license for all or any portion of a PECC,
10 or for any particular service offered by a facility, or may
11 suspend admissions for any of the following reasons:

12 (1) A serious violation of this act, of regulations for
13 licensure issued to this act or of Federal laws and
14 regulations. For the purpose of this paragraph a serious
15 violation is one which poses a significant threat to the
16 health or safety of the children receiving services from the
17 PECC.

18 (2) Failure of a licensee to submit an acceptable plan
19 with a reasonable timetable to correct deficiencies.

20 (3) The existence of a cyclical pattern of deficiencies
21 over a period of two or more years.

22 (4) Failure, by the holder of a provisional license, to
23 correct deficiencies in accordance with a timetable submitted
24 by the applicant and agreed upon by the department.

25 (5) Fraud or deceit in obtaining or attempting to obtain
26 a license.

27 (6) Lending, borrowing or using the license of another,
28 or in any way knowingly aiding or abetting the improper
29 granting of a license.

30 (7) Incompetence, negligence or misconduct in operating

1 the PECC or in providing services to children.

2 (8) Mistreating or abusing ~~individuals~~ CHILDREN cared <—
3 for by the PECC.

4 (9) Serious violation of the laws relating to medical
5 assistance or Medicare reimbursement.

6 (10) Serious violation of other applicable Federal or
7 State laws.

8 Section 11. Operator violation.

9 If the department, upon inspection, investigation or
10 complaint, finds a violation of this act or regulations
11 promulgated by the department under this act or under Federal
12 law, it shall give written notice specifying the violation to
13 the PECC operator. The notice shall require the PECC operator to
14 take action or to submit a plan of correction that shall bring
15 the PECC into compliance with applicable law or regulation
16 within a specified time. The plan of correction must be
17 submitted within ten days of receipt of the written notice or
18 sooner if directed to do so by the department. The department
19 may ban admissions or revoke a license before a plan of
20 correction is submitted if deficiencies pose a significant
21 threat to the health or safety of the children.

22 Section 12. Enforcement.

23 (a) Actions brought by the department.--If a person,
24 regardless of whether the person is a licensee, violates this
25 act or the regulations issued under this act, the department may
26 maintain an action in the name of the Commonwealth for an
27 injunction or other process restraining or prohibiting the
28 person from engaging in such activity.

29 (b) Civil penalty.--A person, regardless of whether the
30 person is a licensee, who has committed a violation of this act

1 or of a regulation issued under this act, including failure to
2 correct a serious licensure violation, as defined by regulation,
3 within the time specified in a deficiency citation, may be
4 assessed a civil penalty by an order of the department of up to
5 \$500 for each deficiency for each day that the deficiency
6 continues. Civil penalties shall be collected from the date the
7 PECC receives notice of the violation until the department
8 confirms correction of such violation.

9 (c) Interest.--If a pediatric extended care center desires
10 to appeal any department action under this section, the PECC
11 shall pay the fine in order to receive the renewal license. If
12 the PECC wins the appeal and the fine is not upheld, the
13 department shall refund the fine plus interest at the legal
14 rate.

15 (d) Amounts of fine.--In determining the amount of any fine,
16 the department shall consider the following factors:

17 (1) The gravity of the violation, including the
18 probability that death or serious physical or emotional harm
19 to a child will result or has resulted, the severity of the
20 actual or potential harm and the extent to which the
21 provisions of the applicable statutes or rules were violated.

22 (2) Actions taken by the owner operator to correct
23 violations.

24 (3) Any previous violations.

25 (4) The financial benefit to the pediatric extended care
26 center of committing or continuing the violation.

27 (5) Any other factor the department deems relevant.

28 Section 13. Closing of PECC.

29 (a) Notice.--Whenever a pediatric extended care center
30 voluntarily discontinues operation, it shall inform the

1 department in writing at least 30 days before the discontinuance
2 of operation. The pediatric extended care center shall also, at
3 such time, inform each child's PARENT OR legal guardian of the <—
4 fact and the proposed time of such discontinuance.

5 (b) Surrender license.--Immediately upon discontinuance of
6 the operation of a pediatric extended care center, the owner or
7 operator shall surrender the license therefor to the department,
8 and the license shall be canceled.

9 Section 14. Right of entry and inspection.

10 For the purpose of determining the suitability of the
11 applicants and of the premises or for determining the adequacy
12 of the care and treatment provided or the continuing conformity
13 of the licensees to this act and to applicable Federal, State
14 and local regulations, an authorized agent of the department has
15 the right to enter, inspect and investigate the building,
16 grounds, equipment and supplies of a PECC licensed under this
17 act; to have access to the records of the PECC and to the
18 children and employees.

19 Section 15. Regulations.

20 (a) Standards.--Pursuant to the intention of the General
21 Assembly to provide safe and sanitary facilities and healthful
22 programs, the department may 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, at a minimum, include:

28 (1) Adoption and implementation of policies and
29 procedures which assure the health and safety of children.

30 (2) The maintenance of pediatric extended care centers

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

6 (3) The appropriate provisions of the "Life Safety Code"
7 (NFPA-101); the National Fire Protection Association
8 requirements and State building code requirements. This
9 paragraph applies to renovation and remodeling of a PECC.

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

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

17 (6) Supportive, contracted, other operational and
18 transportation services. Staff providing transportation
19 services shall not be counted in direct caregiving staff
20 ratio under this paragraph.

21 (7) 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) Requirements.--

26 (1) For emergency transportation, arrangements shall be
27 made with the county emergency transportation services. The
28 PECC shall assure that any child being placed in an ambulance
29 for transport for emergency services is accompanied by a
30 direct caregiver of the PECC who is familiar with the child's

1 treatment plan. The direct caregiver shall stay with the
2 child until the parent OR LEGAL GUARDIAN arrives to relieve
3 the direct caregiver of the PECC. <—

4 (2) The department shall require that the PECC has
5 employed an administrator whose qualifications are that of a
6 physician who has a current, active, unrestricted license in
7 this Commonwealth, a certified registered nurse practitioner
8 licensed to practice in this Commonwealth, a licensed nursing
9 home administrator, personal care home administrator, a child
10 day-care administrator or a registered nurse with five years
11 of documented experience in pediatric medicine. The
12 administrator shall be responsible for the operation of the
13 PECC.

14 (3) The PECC shall employ or contract with a medical
15 director. The medical director's qualifications are that of a
16 physician who has a current, active, unrestricted license in
17 this Commonwealth with pediatric specialty board
18 certification or other postgraduate preparation acceptable to
19 the department or a certified registered nurse practitioner
20 licensed to practice in this Commonwealth with five years of
21 documented experience in pediatric medicine. The medical
22 director shall be responsible for the basic and supportive
23 services including medical, pharmaceutical and nursing
24 services provided by the PECC.

25 (4) A minimum of one supervisor shall be employed for
26 every six children. The supervisor may have direct caregiving
27 responsibilities and may be counted in the one direct
28 caregiving staff to every three children ratio. The
29 supervisor shall comply with all health care professional
30 licensing statutes and regulations promulgated by the

1 appropriate licensing boards. A supervisor shall hold a valid
2 professional license issued by the State Board of Medicine,
3 State Board of Nursing, State Board of Occupational Therapy
4 Education and Licensure, State Board of Osteopathic Medicine,
5 State Board of Pharmacy, State Board of Physical Therapy,
6 State Board of Podiatry or State Board of Examiners in
7 Speech-Language and Hearing.

8 (5) A minimum of one direct caregiving staff shall be
9 available for every three children at all times including the
10 transportation of the child for services not provided in the
11 PECC, but provided to the child while under the care of the
12 PECC. Direct caregiving staff must be a licensed practical
13 nurse, a registered nurse, a physical therapist, an
14 occupational therapist, a speech language pathologist or an
15 individual who has a high school diploma or its equivalent
16 and at least one year of documented and supervised experience
17 in a health care or child-care setting. Additional staff may
18 provide other support services. Basic and supportive services
19 provided at a PECC shall comply with all health care
20 professional licensing statutes and any regulations
21 promulgated by the appropriate licensing boards.

22 (6) Each child shall have an individualized care plan
23 which is designed by the attending physician; the PECC
24 treatment team; a parent or legal guardian; and, when
25 appropriate, the child. The care plan shall be reviewed at
26 least monthly and revised as the child's care needs change.
27 Staffing shall be adequate to provide for the needs of each
28 child as identified on the child's care plan. For any child
29 enrolled in the early intervention program or the local
30 school district's program under the Individuals with

1 Disabilities Education Act (Public Law 91-230, 20 U.S.C. §
2 1400 et seq.), the PECC shall do all of the following:

3 (i) In the development of the care plan, consider
4 the components of the individualized family services plan
5 for children under four years of age or the
6 individualized education plan for children under nine
7 years of age. The PECC shall not duplicate services
8 already provided through the early intervention program
9 or the local school district.

10 (ii) Make available upon request by the early
11 intervention program or the local school district any
12 records necessary to develop, review or revise an
13 individualized family services plan or individualized
14 education plan under Federal law.

15 (7) The PECC shall have a documented orientation program
16 which assures that employees and contract staff are
17 adequately trained to provide services to children.

18 (8) The PECC shall have a documented staff development
19 program that assures that employees and contract staff are
20 adequately trained to provide services to children.

21 (9) The PECC shall have a documented preventative
22 maintenance program with specific emphasis on assuring that
23 all durable medical equipment is functioning correctly and
24 safely so as to assure the health and safety of the children.

25 (10) The PECC shall have appropriate emergency services
26 readily available. These services may include an emergency
27 drug kit, a crash cart with a defibrillator appropriate for
28 children and any other emergency services as appropriate
29 based on the needs of the children served in the PECC.

30 (11) The PECC shall have arrangements with a licensed

1 pharmacist to provide consultation services for children
2 enrolled in the PECC.

3 (12) The director of the PECC shall assure that the
4 governing body has developed, approved and implemented
5 policies and procedures regarding the operation of the PECC.
6 At a minimum, the PECC shall have policies and procedures on
7 the prevention, reporting and investigation of abuse,
8 delivery of medical and therapeutic services, control and
9 delivery of pharmaceutical service and prevention of
10 incidents and accidents.

11 (13) The PECC shall have a written disaster plan which,
12 at a minimum, addresses natural disasters, financial
13 disasters, weather emergencies and bomb threats. A fire drill
14 shall be conducted at least once every two months. A disaster
15 drill shall be practiced every month, and a full evacuation
16 shall occur at least once every six months.

17 (14) The PECC shall report any unusual incidents
18 immediately to the department. Unusual incidents include a
19 death, abuse or suspected abuse, rape, transfer to a hospital
20 as a result of injury or accident, child abduction or child
21 released to wrong family, fire on the premises, a need to
22 implement a disaster plan or receipt of a strike notice,
23 medical errors resulting in injury or harm to the child or
24 any knowledge of an unlicensed practice of a regulated
25 profession.

26 (15) The PECC shall maintain a log of all incidents and
27 accidents. At a minimum, the log shall include the date the
28 incident occurred, a description of the incident, the name of
29 the child involved in the incident and the name of the
30 employee involved in the incident. A system shall be

1 developed, documented and implemented to demonstrate evidence
2 that the incident or accident has been thoroughly
3 investigated and that any corrective action to avoid the
4 incident or accident in the future has been implemented.

5 (16) A PECC may not serve a child for more than 12 hours
6 within a 24-hour period.

7 (17) A PECC may only provide services to medically or
8 technologically dependent children.

9 (18) If, upon application to a PECC, the PECC has no
10 evidence of an application to the early intervention program
11 or the local school district, the PECC shall make a referral
12 for the family to the early intervention program or the local
13 school district, appropriate for the child's residence.

14 (19) The operator and all employees and contract staff
15 of the PECC shall comply with 23 Pa.C.S. § 6344 (relating to
16 information relating to prospective child-care personnel).

17 (20) The PECC shall annually disclose to the department
18 and to the public the names of persons owning 5% or more of
19 the PECC as well as the PECC's officers and board members.

20 (21) All of the standards set forth in this section
21 shall apply at all times that the PECC is open and operating.

22 Section 16. Interim license.

23 Until such time as final rules and regulations are adopted
24 and published, the department shall operate the licensing
25 program pursuant to the standards established in this act.

26 Section 17. ~~License required~~ PENALTY.

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27 (a) Prohibited acts.--It is unlawful for any person or
28 public body to offer or advertise to the public, in any way or
29 by any medium, basic services as defined in this act without
30 obtaining a valid current license. It is unlawful for any holder

1 of a license issued pursuant to this act to advertise or hold
2 out to the public that it holds a license for a pediatric
3 extended care center other than that for which it actually holds
4 a license. EXCEPT AS SET FORTH IN SECTION 4(B)(1), IT IS <—
5 UNLAWFUL TO OPERATE OR MAINTAIN A PEDIATRIC EXTENDED CARE CENTER
6 WITHOUT FIRST OBTAINING FROM THE DEPARTMENT A LICENSE
7 AUTHORIZING SUCH OPERATION.

8 (b) ~~Penalty~~ GRADING.--Any person who violates the provisions <—
9 of subsection (a) commits a misdemeanor of the second degree.
10 Each day of continuing violation shall be considered a separate
11 offense.

12 Section 18. Effective date.

13 This act shall take effect immediately.