

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2173 Session of
2014

INTRODUCED BY CLAY, KIRKLAND, V. BROWN, THOMAS, COHEN, DAVIS,
YOUNGBLOOD, PARKER, O'BRIEN, CRUZ, WATSON AND MIRANDA,
JUNE 19, 2014

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JUNE 19, 2014

AN ACT

1 Amending Title 48 (Lodging and Housing) of the Pennsylvania
2 Consolidated Statutes, regulating boarding houses and rooming
3 houses; conferring powers and duties on the Department of
4 Health; providing for remedies; and imposing penalties.

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

7 Section 1. Title 48 of the Pennsylvania Consolidated
8 Statutes is amended by adding parts to read:

9 PART I

10 PRELIMINARY PROVISIONS

11 (RESERVED)

12 PART II

13 LODGING ESTABLISHMENTS

14 Chapter

15 21. Preliminary Provisions (Reserved)

16 23. Boarding Houses and Rooming Houses

17 CHAPTER 21

18 PRELIMINARY PROVISIONS

1 (RESERVED)

2 CHAPTER 23

3 BOARDING HOUSES AND ROOMING HOUSES

4 Subchapter

5 A. Preliminary Provisions

6 B. Administration

7 C. Licensure

8 D. Miscellaneous

9 SUBCHAPTER A

10 PRELIMINARY PROVISIONS

11 Sec.

12 2301. Scope of chapter.

13 2302. Declaration of policy.

14 2303. Definitions.

15 § 2301. Scope of chapter.

16 This chapter relates to boarding houses and rooming houses.

17 § 2302. Declaration of policy.

18 The General Assembly finds and declares as follows:

19 (1) There are many boarding houses and rooming houses in
20 this Commonwealth which may be infrequently supervised or
21 completely unsupervised, unlicensed and unregulated by the
22 Commonwealth or a municipality.

23 (2) Residents of these establishments are predominantly
24 elderly, disabled and poor individuals, some of whom may
25 need:

26 (i) social, personal and financial services; and

27 (ii) protection from owners and operators, building
28 hazards and unscrupulous and predatory neighbors.

29 (3) Some places masquerade as boarding houses or rooming
30 houses when, in fact, they may be unlicensed assisted living

1 facilities.

2 (4) Some owners and operators prey on residents who:

3 (i) are elderly, without family and without
4 financial resources for personal assistance; or

5 (ii) are parole-ready prison inmates who must show
6 they have a place to live prior to release from
7 incarceration.

8 (5) Some owners and operators of these establishments
9 require vulnerable residents, in lieu of paying rent, to:

10 (i) sign over their Social Security checks,
11 disability checks or other governmental benefits,
12 including food stamps, in exchange for a monthly
13 allowance; or

14 (ii) work in the boarding house or rooming house.

15 (6) While housing ex-offenders is a contentious issue in
16 many communities, the Commonwealth has a vested interest in
17 ensuring that ex-offenders find suitable housing outside of
18 prison because the alternative is usually a high rate of
19 recidivism.

20 (7) It is incumbent upon the Commonwealth to ensure that
21 establishments which house a population with particular
22 needs, including senior citizens, the physically, mentally
23 and intellectually challenged, alcohol and drug abusers and
24 ex-offenders, demonstrate cooperative and coordinated
25 arrangements with appropriate providers of social and public
26 services to meet the needs of the population housed.

27 (8) The goals of this chapter are to:

28 (i) Protect the health, safety and welfare of
29 residents of boarding houses and rooming houses and
30 prevent abuse of residents.

1 (ii) Promote growth and continued improvement of
2 these establishments as suitable and safe housing for
3 residents.

4 (iii) Ensure that:

5 (A) appropriate Commonwealth agencies work in
6 unison with municipalities which license boarding
7 houses or rooming houses; and

8 (B) these establishments are operated to ensure
9 needed social or remedial services are made available
10 to residents.

11 (iv) Protect residents of boarding houses and
12 rooming houses from unscrupulous and predatory owners and
13 operators.

14 § 2303. Definitions.

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

18 "Abuse." An act or absence of action inconsistent with the
19 health, safety and welfare of a resident. The term includes:

20 (1) Physical assault.

21 (2) Denying personal services.

22 (3) Denying a resident access to clothing or an aid to
23 physical functioning.

24 (4) Use of derogatory or inappropriate language toward a
25 resident.

26 (5) Threatening, intimidating or ridiculing a resident.

27 (6) Harassment.

28 (7) Coercion.

29 (8) Sexual exploitation. This paragraph includes
30 inappropriate physical contact.

1 (9) Use of physical restraints or forced confinement.

2 (10) Financial exploitation. This paragraph includes:

3 (i) Unreasonable rate increases.

4 (ii) Requiring a resident to work for the benefit of
5 the owner or operator unless such work is voluntary and
6 adequately compensated.

7 (iii) The use of representative payee status for the
8 payment of a resident's Social Security benefits, food
9 stamps or other governmental assistance to coerce,
10 restrict or exploit the resident.

11 "Accessory building." A building, whether or not occupied by
12 residents:

13 (1) the use of which is incidental to that of the main
14 building of an establishment; and

15 (2) which is located on the same lot as an
16 establishment, a contiguous lot or on a lot that would be
17 contiguous but for the presence of a public or private road,
18 street, alley or other right-of-way.

19 "Affiliate," "affiliate of" or "person affiliated with." A
20 person that directly or indirectly, through one or more
21 intermediaries, controls, is controlled by or is under common
22 control with a specified person.

23 "Aid to physical functioning." Special equipment utilized by
24 a resident to maintain or enhance the resident's physical
25 functioning.

26 "Applicant." An owner or operator that applies for a license
27 under this chapter.

28 "Boarding house." Real property and improvements which
29 contain single rooms for human habitation and in which more than
30 two individuals unrelated to the owner or operator reside and

1 are offered personal service or financial service. The term does
2 not include:

3 (1) A building, other than a dormitory, owned or
4 operated by an institution of higher education, public or
5 private, or by an affiliate of the institution, occupied or
6 held out for occupancy exclusively by students enrolled at
7 the institution.

8 (2) A building arranged for single-room occupancy where
9 the units of dwelling space are occupied or held out for
10 occupancy exclusively by students enrolled at an institution
11 of higher education.

12 (3) A dormitory owned or operated by or on behalf of a
13 nonprofit institution of primary, secondary or higher
14 education for the exclusive use of its students.

15 (4) Child-care services, as defined in 23 Pa.C.S. §
16 6303(a) (relating to definitions).

17 (5) A private or nonprofit retirement facility.

18 (6) A privately arranged housing unit the occupants of
19 which are not related by blood or marriage.

20 (7) A hotel, motel, inn, guest house or other structure
21 which holds itself out by any means, including advertising,
22 license, registration with an innkeepers' group, convention
23 listing association, travel publication or similar
24 association or with a government agency, as being available
25 to provide overnight lodging or use of facility space for
26 consideration to individuals seeking temporary accommodation.

27 (8) A facility licensed by the Department of Public
28 Welfare under Article X of the act of June 13, 1967 (P.L.31,
29 No.21), known as the Public Welfare Code.

30 (9) A facility licensed by the department under the act

1 of July 19, 1979 (P.L.130, No.48), known as the Health Care
2 Facilities Act.

3 (10) A single-family residential dwelling owned or
4 operated by a nonprofit religious or charitable association
5 or corporation which is:

6 (i) available for occupancy by not more than six
7 individuals for the primary purpose of providing
8 charitable assistance from which the association or
9 corporation derives no income; or

10 (ii) used as the principal residence of a minister
11 or employee of the association or corporation.

12 "Compensation." The receipt of value in return for service
13 rendered.

14 "Construction Code." The act of November 10, 1999 (P.L.491,
15 No.45), known as the Pennsylvania Construction Code Act.

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

17 "Dwelling space." An area occupied or intended, arranged or
18 designed to be occupied for sleeping or living purposes by an
19 individual.

20 "Establishment." A boarding house or a rooming house.

21 "Financial service." Assistance furnished by an owner or
22 operator to a resident in the management of personal financial
23 matters as specified in a residency agreement. The term includes
24 cashing checks, holding personal funds for safekeeping and
25 assistance in the purchase of goods or services.

26 "Identifying information." As follows:

27 (1) Name.

28 (2) Address.

29 (3) Telephone number.

30 (4) Electronic mail address.

1 (5) Other information required by regulation under
2 section 2311(a)(1) (relating to rulemaking).

3 "License." The privilege to operate an establishment which
4 is issued by the department under this chapter. The term does
5 not include a municipal license.

6 "Licensee." An operator or owner that holds a valid license.
7 The term does not include a municipal licensee.

8 "Municipal license." A privilege to operate an establishment
9 issued by the municipality in which the establishment is
10 located.

11 "Municipal licensee." An operator or owner that holds a
12 valid municipal license.

13 "Operator." An individual that is responsible for the day-
14 to-day management and operation of an establishment.

15 "Owner." A person that has a legal or equitable interest in
16 an establishment. The term includes an employee or agent of the
17 person.

18 "Parole-ready." Status of being eligible for parole but
19 remaining incarcerated until the conditions or requirements for
20 parole as established by the Department of Corrections and the
21 Pennsylvania Board of Probation and Parole are met.

22 "Personal service." Service, other than shelter, provided to
23 a resident by the owner as specified in a residency agreement.

24 "Reentry services." Services relating to the transition of
25 offenders who have been incarcerated to community supervision.
26 The term includes assistance with housing, jobs, education and
27 alcohol and substance abuse and treatment.

28 "Residency agreement." A written agreement between the owner
29 and a resident that meets the requirements of section 2327
30 (relating to residency agreement).

1 "Resident." An individual who resides in an establishment.

2 "Rooming house." A boarding house that does not provide
3 financial service or personal service.

4 "Secretary." The Secretary of Health of the Commonwealth.

5 "Single-room occupancy." An arrangement of dwelling space
6 which, regardless of the number of occupants:

7 (1) does not provide a private, secure dwelling space
8 arranged for independent living; and

9 (2) contains both sanitary and cooking facilities.

10 SUBCHAPTER B

11 ADMINISTRATION

12 Sec.

13 2311. Rulemaking.

14 2312. Inspections.

15 2313. Sanctions.

16 2314. Process.

17 § 2311. Rulemaking.

18 (a) Authority.--The department shall develop by regulation
19 criteria as to all of the following:

20 (1) Identifying information of residents.

21 (2) Protection of health, safety and general welfare of
22 residents. This paragraph includes:

23 (i) Restrictions on financial service and personal
24 service.

25 (ii) Disclosure of owner identification information.

26 (iii) Maintenance of financial and occupancy records
27 by the owner.

28 (iv) Referral of residents to social service and
29 health care agencies.

30 (v) An owner's obligation to permit reasonable

1 visitation rights for friends and family of residents.

2 (3) Classification of establishments based upon:

3 (i) age;

4 (ii) size;

5 (iii) type of construction;

6 (iv) nature of ownership;

7 (v) type of services offered by the owner or
8 operator;

9 (vi) limitations on occupancy; and

10 (vii) population of residents.

11 (4) Meeting special needs of residents with physical or
12 mental disabilities. This paragraph includes:

13 (i) Staff levels, qualifications and training.

14 (ii) Special supervision requirements relating to
15 the individual needs of residents.

16 (iii) Building safety requirements.

17 (iv) Health monitoring of residents by qualified,
18 licensed health care professionals. This subparagraph
19 includes initial and quarterly medical assessments.

20 (5) Criteria for early termination of residency
21 agreements and eviction of residents.

22 (6) Requiring that an owner that offers an establishment
23 for occupancy by parole-ready offenders or paroled offenders
24 enters into a written cooperative arrangement with the
25 Pennsylvania Board of Probation and Parole so that the
26 individual's parole officer has knowledge of the individual's
27 occupancy in the establishment, the services, if any, being
28 provided to the individual at the establishment and the
29 termination of the individual's occupancy.

30 (7) General safety of the establishment as to:

1 (i) fire;
2 (ii) structural, mechanical, plumbing and electrical
3 condition;
4 (iii) lighting;
5 (iv) ventilation;
6 (v) physical security of residents;
7 (vi) cleanliness; and
8 (vii) installation of one or more smoke detectors
9 and carbon monoxide sensor devices that conform to the
10 standards established by a nationally recognized
11 independent safety science company that certifies,
12 validates, tests and inspects safety products and devices
13 for conformance to such standards.

14 (8) Compliance with the Construction Code.

15 (9) The amount of license application fee which shall be
16 based upon the classification of an establishment under
17 paragraph (3). Such fee shall not be less than \$300 nor more
18 than \$600 and shall be payable prior to the issuance of a
19 license and each renewal thereof.

20 (10) A requirement that the operator reside in the
21 establishment.

22 (11) The period of time an owner is required to maintain
23 the records of residents required to be kept under section
24 2326 (relating to resident records).

25 (b) Waiver.--

26 (1) Upon application of an owner, the secretary may
27 waive compliance by the owner with one or more requirements
28 of the regulations.

29 (2) The secretary may grant the waiver upon finding all
30 of the following:

1 (i) Strict compliance with the applicable
2 requirement will result in undue hardship for the
3 residents.

4 (ii) Granting the waiver will not unreasonably
5 jeopardize the health, welfare and safety of the
6 residents or the general public.

7 (3) The waiver shall specify all of the following:

8 (i) The regulatory requirement being waived.

9 (ii) The extent of the waiver as to:

10 (A) content; and

11 (B) time period.

12 (c) Temporary regulations.--Until the date occurring two
13 years following the effective date of this section, the
14 department may promulgate temporary regulations. Regulations
15 under this paragraph:

16 (1) shall expire no later than three years following the
17 effective date of this section; and

18 (2) shall be exempt from:

19 (i) sections 201, 202, 203 and 205 of the act of
20 July 31, 1968 (P.L.769, No.240), referred to as the
21 Commonwealth Documents Law; and

22 (ii) the act of June 25, 1982 (P.L.633, No.181),
23 known as the Regulatory Review Act.

24 (d) Database.--The department shall establish and maintain a
25 searchable Internet-based registry of licensees and municipal
26 licensees. A link to the database shall be posted on the
27 department's publicly accessible Internet website.

28 § 2312. Inspections.

29 (a) Department's authority.--The department shall have the
30 authority and obligation to enter and inspect, at least

annually, each establishment for which a license has been issued
or renewed. In addition, the department shall have the authority
to enter and inspect an establishment at any time about which
the department has received a written complaint or other
information about the establishment evidencing a credible threat
to the health, safety or welfare of the residents. Each
inspection under this subsection shall include a review of the
records of residents required to be retained by the licensee
under this chapter.

(b) Violations.--If the department determines, as a result
of an inspection conducted under subsection (a), that the
licensee is in violation of any of the provisions of this
chapter or the regulations promulgated hereunder, the department
may impose one or more of the sanctions authorized under section
2313 (relating to sanctions).

(c) Imminent hazards.--If upon inspection of an
establishment under this section the department discovers
conditions that constitute an imminent hazard to the health,
safety or welfare of the residents or of the public generally,
regardless of whether such conditions constitute a violation of
this chapter or the regulations promulgated by the department
under this chapter, the department may issue a written order to
the licensee requiring immediate evacuation of the establishment
together with appropriate steps to be taken by the licensee in
order to correct the problem before the establishment may be
reoccupied. Notwithstanding any provision in a residency
agreement to the contrary, residents shall receive a credit
against future occupancy fees on a pro rata basis for any day or
portion of a day that the establishment is closed as a result of
this subsection or any other order of the department.

1 § 2313. Sanctions.

2 If the department has determined that a person has violated
3 this chapter or a regulation promulgated under this chapter, the
4 department may issue an order doing one or more of the
5 following:

6 (1) Requiring correction of the violation within a
7 specified period of time.

8 (2) Requiring monthly reports on compliance status.

9 (3) Assessing an administrative penalty of up to \$10,000
10 for each violation.

11 (4) Suspending or revoking the license in which event
12 the establishment shall close.

13 (5) Referring the matter to appropriate law enforcement.

14 § 2314. Process.

15 (a) Manner.--Notices or orders issued under this chapter
16 must be served by:

17 (1) personal service at the establishment upon the
18 operator or an individual who is an agent of the licensee or
19 the operator and at least 18 years of age; or

20 (2) certified mail, return receipt requested, at the
21 address of the establishment.

22 (b) Date.--The date of service shall be considered to be the
23 third day after service is made under subsection (a).

24 SUBCHAPTER C

25 LICENSURE

26 Sec.

27 2321. Requirement.

28 2322. Procedure.

29 2323. Contents of license.

30 2324. License term and renewal.

1 2325. Information.
2 2326. Resident records.
3 2327. Residency agreement.
4 2328. Reentry services.
5 2329. Municipal licenses.
6 § 2321. Requirement.

7 Except as set forth in section 2329 (relating to municipal
8 licenses), no person shall operate an establishment, hold out a
9 building for occupancy as an establishment or apply for local
10 construction or planning approvals for an establishment without
11 first obtaining and maintaining a valid license under this
12 subchapter.

13 § 2322. Procedure.

14 (a) Application and fee.--

15 (1) An applicant must submit an application to the
16 department on a form prescribed by the department that
17 includes all of the following:

18 (i) Identification of the establishment as:

19 (A) a boarding house; or

20 (B) a rooming house.

21 (ii) Description of the premises of the
22 establishment.

23 (iii) Maximum number of residents.

24 (iv) Number of floors to be occupied.

25 (v) Number of dwelling spaces on each floor.

26 (vi) Identifying information of all of the
27 following:

28 (A) The owner.

29 (B) The operator.

30 (C) For a partnership which is the owner, each

1 partner.

2 (D) For an association which is the owner, each
3 officer.

4 (E) For a corporation which is the owner:

5 (I) each officer;

6 (II) each director; and

7 (III) each stockholder with at least 5%
8 equity interest.

9 (F) For a license to operate a boarding house,
10 the individual, if different from the operator, who
11 will be responsible for providing financial service
12 to residents.

13 (G) The name of any other individual who will be
14 authorized to make decisions and expenditures on
15 behalf of the owner concerning the establishment.

16 (vii) Description of services which will be offered
17 to residents.

18 (viii) Copy of the form residency agreement to be
19 signed by residents.

20 (ix) If individuals on probation or parole will be
21 residents, a copy of the cooperative arrangement with the
22 Pennsylvania Board of Probation and Parole required by
23 section 2311(a)(6) (relating to rulemaking).

24 (x) For each individual named in clause (vi), a
25 report of criminal history record information from the
26 Pennsylvania State Police or a statement from the
27 Pennsylvania State Police that the central repository
28 contains no such information relating to that individual.
29 Such report of criminal history record information shall
30 be no more than one year old.

1 (xi) For each individual named in clause (vi) who
2 has not been a resident of this Commonwealth for at least
3 two years prior to submission by the owner of an
4 application under this subchapter, in addition to the
5 report required by clause (x), a report of Federal
6 criminal history record information obtained from the
7 Federal Bureau of Investigation.

8 (xii) History of the applicant or any of its
9 affiliates with prior applications for licensure and
10 licensure of an establishment in any jurisdiction,
11 including this Commonwealth.

12 (2) The application shall be accompanied by the
13 applicable application fee.

14 (b) Determination.--

15 (1) Within 60 days of receipt of a complete application
16 and fee under subsection (a), the department shall notify the
17 applicant of the applicant's eligibility for a license. The
18 applicant shall have 30 days to meet any requirement for
19 eligibility the department has determined was not met during
20 its investigation of the application. If the requirements are
21 not met within the 30-day period, the department shall deny
22 the license.

23 (2) If the department determines that the applicant is
24 eligible for licensure under this chapter, it shall issue a
25 license.

26 (3) The department may deny an application for any of
27 the following reasons:

28 (i) The department determines that the issuance of a
29 license to the applicant would be contrary to the best
30 interests of the proposed residents or of the public

1 generally.

2 (ii) The applicant has previously been denied a
3 license by the department or any other jurisdiction or
4 has had a license revoked or not renewed by the
5 department or any other jurisdiction.

6 (iii) The applicant, in a final adjudication by a
7 court of record, has been found to have discriminated in
8 housing on the basis of race, color, creed, gender,
9 sexual orientation, national origin or ancestry.

10 (iv) The proposed establishment does not comply with
11 the Construction Code or local zoning requirements.

12 (v) The owner or any of the persons named in
13 subsection (a)(1)(vi) has been sanctioned, within five
14 years preceding the date of the application, under
15 Article X of the act of June 13, 1967 (P.L.31, No.21),
16 known as the Public Welfare Code, or under the act of
17 July 19, 1979 (P.L.130, No.48), known as the Health Care
18 Facilities Act, because of abuse of a resident of a
19 facility governed by the acts or a threat to the health
20 or safety of any resident.

21 (4) The department shall deny an application if the
22 owner or any other individual named in subsection (a)(1)(vi)
23 has been sentenced for any of the following:

24 (i) An offense graded as a felony under the act of
25 April 14, 1972 (P.L.233, No.64), known as The Controlled
26 Substance, Drug, Device and Cosmetic Act.

27 (ii) Under 18 Pa.C.S. Ch. 39 (relating to theft and
28 related offenses):

29 (A) an offense graded above a misdemeanor of the
30 first degree; or

1 (B) more than one offense graded as a
2 misdemeanor of the third degree.

3 (iii) An offense graded above a misdemeanor of the
4 first degree under 18 Pa.C.S. § 5902(b) (relating to
5 prostitution and related offenses).

6 (iv) An offense under any of the following
7 provisions of 18 Pa.C.S. (relating to crimes and
8 offenses):

9 Chapter 25 (relating to criminal homicide).

10 Section 2702 (relating to aggravated assault).

11 Section 2709.1 (relating to stalking).

12 Section 2901 (relating to kidnapping).

13 Section 2902 (relating to unlawful restraint).

14 Section 3121 (relating to rape).

15 Section 3122.1 (relating to statutory sexual
16 assault).

17 Section 3123 (relating to involuntary deviate
18 sexual intercourse).

19 Section 3124.1 (relating to sexual assault).

20 Section 3125 (relating to aggravated indecent
21 assault).

22 Section 3126 (relating to indecent assault).

23 Section 3127 (relating to indecent exposure).

24 Section 3301 (relating to arson and related
25 offenses).

26 Section 3502 (relating to burglary).

27 Section 3701 (relating to robbery).

28 Section 4101 (relating to forgery).

29 Section 4114 (relating to securing execution of
30 documents by deception).

1 Section 4302 (relating to incest).

2 Section 4303 (relating to concealing death of
3 child).

4 Section 4304 (relating to endangering welfare of
5 children).

6 Section 4305 (relating to dealing in infant
7 children).

8 Section 4952 (relating to intimidation of
9 witnesses or victims).

10 Section 4953 (relating to retaliation against
11 witness, victim or party).

12 Section 5903(c) or (d) (relating to obscene and
13 other sexual materials and performances).

14 Section 6301 (relating to corruption of minors).

15 Section 6312 (relating to sexual abuse of
16 children).

17 (v) An offense from another jurisdiction similar to
18 an offense under subparagraph (i), (ii), (iii) or (iv).

19 (5) Failure by the department to approve or deny an
20 application within the time limitations under paragraph (1)
21 shall be deemed a denial of the application.

22 (6) The issuance of a license shall not be construed as
23 a representation by the department that it has inspected, or
24 is making any representation as to the quality of, the
25 establishment.

26 (c) Failure to disclose.--A person who fails to disclose any
27 of the following in an application for a license may, at the
28 secretary's discretion upon consideration of the circumstances,
29 be assessed a civil penalty of up to \$10,000, the revocation of
30 the person's license, or both:

1 (1) the fact that the person, or an affiliate of the
2 person, was previously denied a license or a municipal
3 license;

4 (2) the fact that the person's or the person's
5 affiliate's license or municipal license was revoked; or

6 (3) the fact the person, or an affiliate of the person,
7 was previously denied a license in another jurisdiction or
8 that the license was revoked.

9 (d) Change of operator.--An owner shall notify the
10 department as soon as practicable following a change in the
11 identity of the operator of an establishment following issuance
12 or renewal of a license. Continued licensure of the
13 establishment shall be conditioned upon the receipt by the
14 department of satisfactory information about the new operator
15 required under subsection (a) (1).

16 § 2323. Contents of license.

17 The license shall include:

18 (1) Name of:

19 (i) the owner; and

20 (ii) the operator;

21 (2) The address of the establishment.

22 (3) Specification of whether the establishment is a
23 boarding house or a rooming house.

24 (4) Effective date and expiration date.

25 (5) The following statement in a prominent location and
26 boldface type:

27 The issuance of this license does not constitute
28 approval, recommendation or endorsement of a rooming
29 or boarding house by the Department of Health of the
30 Commonwealth of Pennsylvania.

1 § 2324. License term and renewal.

2 (a) Term.--A license shall be valid for one year from the
3 date of issuance.

4 (b) Renewal.--A license may be renewed upon compliance with
5 section 2322 (relating to procedure).

6 § 2325. Information.

7 (a) Posting information.--An operator shall prominently post
8 in an area of the establishment visible and open to the public a
9 statement containing all of the following:

10 (1) The current license or municipal license issued for
11 the establishment.

12 (2) The names of each of the following:

13 (i) the owner;

14 (ii) the operator; and

15 (iii) any other individual authorized to make
16 decisions concerning the establishment and expenditures
17 concerning the premises.

18 (b) Revision to information.--Within seven days of a change
19 in the information contained in the statement under subsection
20 (a), revisions to the statement shall be made.

21 (c) Signed statement.--A copy of the statement under
22 subsection (a) signed by the operator:

23 (1) shall be given to each resident at the commencement
24 of occupancy; and

25 (2) upon request, shall be provided to the department
26 and the municipality in which the establishment is located.

27 § 2326. Resident records.

28 (a) Resident file.--A licensee shall maintain a file with
29 respect to each resident. The file shall be made available only
30 to the resident, the resident's personal representative and the

1 department. The file shall include all of the following:

2 (1) Identifying information about the following:

3 (i) The resident.

4 (ii) The resident's next of kin or personal
5 representative.

6 (iii) The resident's health care professionals.

7 (iv) The agency, if any, that referred the resident
8 to the licensee.

9 (v) The resident's parole officer or probation
10 officer, if any.

11 (2) Period of occupancy.

12 (3) Complaint history for each complaint made:

13 (i) by the resident; and

14 (ii) about the resident.

15 (4) Certification issued by an osteopath or a physician
16 as to general state of health of the resident and any
17 illnesses or disabilities and medication required.

18 (5) A record of all personal property of the resident
19 entrusted to the licensee.

20 (6) If the licensee is a boarding house, a current
21 statement of account for each resident receiving financial
22 service. This paragraph includes a copy of any representative
23 payment agreement between the licensee and the resident.

24 § 2327. Residency agreement.

25 (a) Requirement.--

26 (1) A licensee shall enter into a residency agreement
27 with each resident.

28 (2) If a resident has a mental or physical disability,
29 the residency agreement must be witnessed by a personal
30 representative of the resident.

1 (b) Contents.--

2 (1) A residency agreement for a boarding house shall
3 include all of the following:

4 (i) Fees.

5 (ii) Terms of occupancy, including those rules
6 regarding the use of tobacco or alcohol at the
7 establishment and any visitation restrictions.

8 (iii) Financial service to be provided.

9 (iv) Personal service to be provided.

10 (v) Termination provisions.

11 (vi) If the resident chooses to have the licensee
12 act as representative payee for the payment of the
13 resident's Social Security benefits or payments to the
14 resident, the following:

15 (A) indication of such choice and the procedure
16 for terminating the representative payee relationship
17 by either party; and

18 (B) the written consent to such choice by a
19 family member or personal representative of the
20 resident.

21 (2) A residency agreement for a rooming house shall
22 include all of the following:

23 (i) Fees.

24 (ii) Terms of occupancy.

25 (iii) Termination provisions.

26 (c) Record.--The operator shall maintain a record of each
27 residency agreement for five years after a residency agreement
28 is terminated.

29 § 2328. Reentry services.

30 Reentry services may only be offered or provided to a parole-

ready offender or paroled offender by a licensee that
demonstrates to the department that cooperative arrangements
have been made with the appropriate probation or parole office
responsible for the supervision of the offender.

§ 2329. Municipal licenses.

(a) General rule.--Except as provided in subsection (b), all
local ordinances purporting to license and regulate
establishments in this Commonwealth are hereby superseded. The
Commonwealth, by this section, preempts and supersedes the
licensure and regulation of establishments as provided in this
chapter.

(b) Exception.--A municipality may provide by ordinance for
the regulation by the municipality of establishments located in
the municipality, including the requirement for the issuance of
licenses with respect thereto, provided that the requirements
for licensure and regulation are at least as comprehensive and
effective as those set forth in this chapter and the regulations
promulgated hereunder, including the requirement that each
establishment licensed by the municipality be subject to an
annual inspection. A municipality shall have 180 days following
the effective date of this section within which to repeal any
ordinance that does not comply with this subsection or to modify
the ordinance so that it does comply. An ordinance that does not
comply by the date shall be void and unenforceable.

(c) Determination.--

(1) A municipality that licenses and regulates
establishments on the effective date of this section, or
desires to do so in the future, may ask the department for a
determination that its ordinance and regulations or proposed
ordinance and regulations meet the requirements of subsection

1 (b).

2 (2) A request for a determination shall be made in
3 writing to the department and shall include a copy of the
4 ordinance and regulations promulgated or to be promulgated
5 thereunder and the municipality's explanation for why it
6 believes its ordinances and regulations meet the requirements
7 of subsection (b). The department shall notify the
8 municipality of its determination in writing.

9 (3) A determination by the department that a
10 municipality's ordinance and regulations meet the
11 requirements of subsection (b) shall be valid unless either
12 of the following events occur in which case the municipality
13 must request a new determination if it desires to continue to
14 license and regulate establishments located in the
15 municipality:

16 (i) this chapter is modified by legislative
17 enactment;

18 (ii) the department modifies the regulations
19 promulgated hereunder; or

20 (iii) the municipality's ordinance or regulations
21 are modified in any way.

22 (d) Effect.--If the department determines that the
23 municipality's ordinance and regulations meet the requirements
24 of subsection (b), an establishment located in the municipality
25 shall not be required to obtain a license from the department.
26 Following such determination and notwithstanding the foregoing,
27 municipal licensees shall be required to also comply with the
28 provisions of this chapter and the regulations promulgated by
29 the department hereunder to the extent the same are not
30 inconsistent with the municipality's ordinance or regulations.

SUBCHAPTER D

MISCELLANEOUS

Sec.

2331. Retaliation.

2332. Criminal prohibitions.

2333. Jurisdiction.

2334. Administrative agency law.

§ 2331. Retaliation.

A licensee may not retaliate against a resident for exercising a right or privilege under this chapter or a regulation promulgated under this chapter.

§ 2332. Criminal prohibitions.

(a) Licensure.--A person may not operate an establishment unless the person is in compliance with section 2321 (relating to requirement).

(b) Health care services.--A licensee may not provide health care services in an establishment. This subsection does not prohibit a licensed health care provider acting within the scope of practice of the individual's license from providing health care services to a resident in an establishment.

(c) Representative payee.--No person shall offer to serve as the representative payee of a resident without the written consent of a family member or personal representative of the resident.

(d) Government benefits.--No person shall require or accept food stamps or any other public benefits from a resident as a form of payment for occupancy in an establishment or the provision of any service provided to the resident at an establishment.

(e) Advertising.--A person may not make a false

1 representation as to licensure under this chapter.

2 (f) Obstruction.--A person may not obstruct the department
3 in the administration of this chapter and regulations
4 promulgated under this chapter.

5 (g) False or misleading information.--Filings under this
6 chapter are subject to 18 Pa.C.S. § 4904 (relating to unsworn
7 falsification to authorities).

8 (h) Grading.--

9 (1) A person that violates subsection (a), (b), (c) or
10 (d) commits a misdemeanor of the second degree.

11 (2) A person that violates subsection (e) or (f) commits
12 a misdemeanor of the third degree.

13 § 2333. Jurisdiction.

14 The Office of Attorney General and the district attorney in
15 the county where the establishment is located shall have
16 concurrent jurisdiction to prosecute the criminal prohibitions
17 contained in this chapter.

18 § 2334. Administrative agency law.

19 This chapter is subject to 2 Pa.C.S. Chs. 5 Subch. A
20 (relating to practice and procedure of Commonwealth agencies)
21 and 7 Subch. A (relating to judicial review of Commonwealth
22 agency action).

23 Section 2. This act shall take effect as follows:

24 (1) The following provisions shall take effect
25 immediately:

26 (i) The addition of 48 Pa.C.S. § 2311.

27 (ii) This section.

28 (2) The remainder of this act shall take effect 30 days
29 following the publication of temporary regulations
30 promulgated under 48 Pa.C.S. § 2311.