



SENATE BILL No. 836

February 6, 1996, Introduced by Senators SHUGARS and SCHWARZ and referred to the Committee on Health Policy and Senior Citizens.

A bill to amend sections 3, 4, 5, and 6 of Act No. 218 of the Public Acts of 1979, entitled as amended "Adult foster care facility licensing act," section 3 as amended by Act No. 82 of the Public Acts of 1995 and section 5 as amended by Act No. 40 of the Public Acts of 1984, being sections 400.703, 400.704, 400.705, and 400.706 of the Michigan Compiled Laws; and to add section 26a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 4, 5, and 6 of Act No. 218 of the
2 Public Acts of 1979, section 3 as amended by Act No. 82 of the
3 Public Acts of 1995 and section 5 as amended by Act No. 40 of the
4 Public Acts of 1984, being sections 400.703, 400.704, 400.705,
5 and 400.706 of the Michigan Compiled Laws, are amended and
6 section 26a is added to read as follows:

1 Sec. 3. (1) "Adult" means:

2 (a) A person 18 years of age or older.

3 (b) A person who is placed in an adult foster care family
4 home or an adult foster care small group home pursuant to section
5 5(6) or (8) of Act No. 116 of the Public Acts of 1973, being sec-
6 tion 722.115 of the Michigan Compiled Laws.

7 (2) "Adult foster care camp" or "adult camp" means an adult
8 foster care facility with the approved capacity to receive more
9 than 4 adults to be provided foster care. An adult foster care
10 camp is a facility located in a natural or rural environment.

11 (3) "Adult foster care congregate facility" means an adult
12 foster care facility with the approved capacity to receive more
13 than 20 adults to be provided with foster care.

14 (4) "Adult foster care facility" means a governmental or
15 nongovernmental establishment that provides foster care to
16 adults. ~~Adult~~ SUBJECT TO SECTION 26A(1), ADULT foster care
17 facility includes facilities and foster care family homes for
18 adults who are aged, mentally ill, developmentally disabled, or
19 physically handicapped who require supervision on an ongoing
20 basis but who do not require continuous nursing care. Adult
21 foster care facility does not include any of the following:

22 (a) A nursing home licensed under article 17 of the public
23 health code, Act No. 368 of the Public Acts of 1978, being sec-
24 tions 333.20101 to 333.22260 of the Michigan Compiled Laws.

25 (b) A home for the aged licensed under article 17 of the
26 public health code, Act No. 368 of the Public Acts of 1978.

1 (c) A hospital licensed under article 17 of the public
2 health code, Act No. 368 of the Public Acts of 1978.

3 (d) A hospital for the mentally ill or a facility for the
4 developmentally disabled operated by the department of mental
5 health under the mental health code, Act No. 258 of the Public
6 Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan
7 Compiled Laws.

8 (e) A county infirmary operated by a county department of
9 social services under section 55 of the social welfare act, Act
10 No. 280 of the Public Acts of 1939, being section 400.55 of the
11 Michigan Compiled Laws.

12 (f) A child caring institution, children's camp, foster
13 family home, or foster family group home licensed or approved
14 under Act No. 116 of the Public Acts of 1973, being sections
15 722.111 to 722.127 of the Michigan Compiled Laws, if the number
16 of residents who become 18 years of age while residing in the
17 institution, camp, or home does not exceed the following:

18 (i) Two, if the total number of residents is 10 or fewer.

19 (ii) Three, if the total number of residents is not less
20 than 11 and not more than 14.

21 (iii) Four, if the total number of residents is not less
22 than 15 and not more than 20.

23 (iv) Five, if the total number of residents is 21 or more.

24 (g) A foster family home licensed or approved under Act
25 No. 116 of the Public Acts of 1973, being sections 722.111 to
26 722.127 of the Michigan Compiled Laws, that has a person who is
27 18 years of age or older placed in the foster family home under

1 section 5(7) of Act No. 116 of the Public Acts of 1973, being
2 section 722.115 of the Michigan Compiled Laws.

3 (h) An establishment commonly described as an alcohol or a
4 substance abuse rehabilitation center, a residential facility for
5 persons released from or assigned to adult correctional institu-
6 tions, a maternity home, or a hotel or rooming house that does
7 not provide or offer to provide foster care.

8 (i) A facility created by Act No. 152 of the Public Acts of
9 1885, as amended, being sections 36.1 to 36.12 of the Michigan
10 Compiled Laws.

11 (5) "Adult foster care family home" means a private resi-
12 dence with the approved capacity to receive 6 or fewer adults to
13 be provided with foster care for 5 or more days a week and for 2
14 or more consecutive weeks. The adult foster care family home
15 licensee shall be a member of the household, and an occupant of
16 the residence.

17 (6) "Adult foster care large group home" means an adult
18 foster care facility with the approved capacity to receive at
19 least 13 but not more than 20 adults to be provided with foster
20 care.

21 (7) "Adult foster care small group home" means an adult
22 foster care facility with the approved capacity to receive 12 or
23 fewer adults to be provided with foster care.

24 (8) "Aged" means an adult whose chronological age is 60
25 years of age or older or whose biological age, as determined by a
26 physician, is 60 years of age or older.

1 (9) "Assessment plan" means a written statement prepared in
 2 cooperation with a responsible agency or person that identifies
 3 the specific care and maintenance, services, and resident activi-
 4 ties appropriate for each individual resident's physical and
 5 behavioral needs and well-being and the methods of providing the
 6 care and services taking into account the preferences and compe-
 7 tency of the individual.

8 Sec. 4. (1) "Council" means the adult foster care licensing
 9 advisory council created in section 8.

10 (2) "Department" means the ~~department of social services~~
 11 FAMILY INDEPENDENCE AGENCY.

12 (3) "Developmental disability" means a disability as defined
 13 in section 500(h) of Act No. 258 of the Public Acts of 1974, ~~as~~
 14 ~~amended~~, being section 330.1500 of the Michigan Compiled Laws.

15 (4) "Director" means the director of ~~social services~~ THE
 16 DEPARTMENT.

17 (5) "DO-NOT-RESUSCITATE ORDER" MEANS A DOCUMENT EXECUTED
 18 PURSUANT TO SECTION 3 OF THE MICHIGAN DO-NOT-RESUSCITATE PROCE-
 19 DURE ACT DIRECTING THAT, IN THE EVENT A RESIDENT SUFFERS CESSA-
 20 TION OF BOTH SPONTANEOUS RESPIRATION AND CIRCULATION, NO RESUSCI-
 21 TATION WILL BE INITIATED.

22 (6) ~~(5)~~ "Foster care" means the provision of supervision,
 23 personal care, and protection in addition to room and board, for
 24 24 hours a day, 5 or more days a week, and for 2 or more consecu-
 25 tive weeks for compensation.

26 Sec. 5. (1) "Good moral character" means good moral
 27 character as defined in Act No. 381 of the Public Acts of 1974,

1 ~~as amended,~~ being sections 338.41 to 338.47 of the Michigan
2 Compiled Laws.

3 (2) "LICENSED HOSPICE PROGRAM" MEANS A HEALTH CARE PROGRAM
4 THAT PROVIDES A COORDINATED SET OF SERVICES RENDERED AT HOME OR
5 IN AN OUTPATIENT OR INSTITUTIONAL SETTING FOR INDIVIDUALS SUFFER-
6 ING FROM A DISEASE OR CONDITION WITH A TERMINAL PROGNOSIS AND
7 THAT IS LICENSED UNDER ARTICLE 17 OF THE PUBLIC HEALTH CODE, ACT
8 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.20101 TO
9 333.22260 OF THE MICHIGAN COMPILED LAWS.

10 (3) ~~(2)~~ "Licensee" means the agency, association, corpora-
11 tion, organization, person, or department or agency of the state,
12 county, city, or other political subdivision, ~~which~~ THAT has
13 been issued a license to operate an adult foster care facility.

14 (4) ~~(3)~~ "Mental illness" means a substantial disorder of
15 thought or mood ~~which~~ THAT significantly impairs judgment,
16 behavior, capacity to recognize reality, or ability to cope with
17 the ordinary demands of life.

18 (5) ~~(4)~~ "New construction" means a newly constructed
19 facility or a facility that has been completely renovated for use
20 as an adult foster care facility.

21 Sec. 6. (1) "Personal care" means personal assistance pro-
22 vided by ~~the~~ A licensee or an agent or employee of ~~the~~ A
23 licensee to a resident who requires assistance with dressing,
24 personal hygiene, grooming, maintenance of a medication schedule
25 as directed and supervised by the resident's physician, or the
26 development of those personal and social skills required to live
27 in the least restrictive environment.

1 (2) "Physical handicap" means a determinable physical
2 characteristic of an individual which may result from disease,
3 injury, congenital condition of birth, or functional disorder.

4 (3) "Physical plant" means the structure in which a facility
5 is located and all physical appurtenances to the facility.

6 (4) "Protection", SUBJECT TO SECTION 26A(2), means the con-
7 tinual responsibility of the licensee to take reasonable action
8 to insure the health, safety, and well-being of a resident,
9 including protection from physical harm, humiliation, intimidat-
10 tion, and social, moral, financial, and personal exploitation
11 while on the premises, while under the supervision of the
12 licensee or an agent or employee of the licensee, or when the
13 resident's assessment plan states that the resident needs contin-
14 uous supervision.

15 (5) "Provisional license" means a license issued to a facil-
16 ity ~~which~~ THAT has previously been licensed under this act or
17 an act repealed by this act but is temporarily unable to conform
18 to the requirements of a regular license prescribed in this act
19 or rules promulgated under this act.

20 (6) "Quality of care" means the foster care of residents of
21 a facility and other similar items not related to the physical
22 plant that address themselves to the general physical and mental
23 health, welfare, and well-being of residents.

24 SEC. 26A. (1) A RESIDENT OF AN ADULT FOSTER CARE FACILITY
25 WHO IS ENROLLED IN A LICENSED HOSPICE PROGRAM IS NOT CONSIDERED
26 TO REQUIRE CONTINUOUS NURSING CARE FOR PURPOSES OF SECTION 3(4).

1 (2) A LICENSEE PROVIDING FOSTER CARE TO A RESIDENT WHO IS
2 ENROLLED IN A LICENSED HOSPICE PROGRAM AND WHOSE ASSESSMENT PLAN
3 INCLUDES A DO-NOT-RESUSCITATE ORDER IS CONSIDERED TO BE PROVIDING
4 PROTECTION TO THE RESIDENT FOR PURPOSES OF SECTION 6(4) AND THE
5 RULES PROMULGATED UNDER THIS ACT IF, IN THE EVENT THE RESIDENT
6 SUFFERS CESSATION OF BOTH SPONTANEOUS RESPIRATION AND CIRCULA-
7 TION, THE LICENSEE CONTACTS THE LICENSED HOSPICE PROGRAM.

8 Section 2. This amendatory act shall not take effect unless
9 Senate Bill No. 452 of the 88th Legislature is enacted into law.