

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 5-48

"Health-Care and Community Residence Facility
Hospice and Home Care Licensure Act of 1983".

Pursuant to Section 412 of the District of Columbia Self-

Government and Governmental Reorganization Act, P. L. 93-198,

"the Act", the Council of the District of Columbia adopted Bill

No. 5-166 on first and second readings, September 20, 1983 and

October 4, 1983, respectively. Following the signature of

the Mayor on October 28, 1983, this legislation was assigned

Act No. 5-74, published in the November 11, 1983 edition of the

D.C. Register, (Vol. 30 page 5778) and transmitted to Congress

November 1, 1983 for a 30-day review, in accordance with Section

602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice

that the 30-day Congressional Review Period has expired, and

therefore, cites this enactment as D.C. Law 5-48, effective

February 24, 1984.

David A. Clarke
DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

November 1, 2, 3, 4, 7, 8, 9, 10, 14, 15, 16, 17, 18

January 23, 24, 25, 26, 27, 30, 31

February 1, 2, 3, 6, 7, 8, 9, 21, 22, 23

AN ACT

5-74

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983".

Sec. 2. Definitions.

(a) For the purposes of this act the term:

- (1) "Hospital" means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may in addition provide outpatient services, particularly emergency care.
- (2) "Maternity center" means a facility or other place, other than a hospital or the mother's home, that provides antepartal, intrapartal, and postpartal care for both mother and child during and after normal, uncomplicated pregnancy.
- (3) "Nursing home" means a 24-hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient/resident.
- (4) "Community residence facility" means a facility that provides a sheltered living environment for individuals aged 18 or older (except that, in the case of group homes for mentally retarded persons, no minimum age shall apply) who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections.
- (5) "Group home for mentally retarded persons" means a community residence facility that provides a home-like environment for at least 4 but no more than 8 related or unrelated individuals who on account of mental retardation require specialized living arrangements, and maintains the necessary staff, programs, support services, and equipment for their care and habilitation.
- (6) "Hospice" means an agency, organization, or distinct part thereof, primarily engaged in providing a program of in-home, outpatient, or inpatient medical, nursing, counseling, bereavement, and other palliative and supportive services to terminally ill individuals and their families.
- (7) "Home care agency" means an agency, organization, or distinct part thereof, other than a hospice, that provides, either directly or through a contractual arrangement, a program of health care,

habilitative or rehabilitative therapy, personal care services, homemaker services, chore services, or other services, or in a community residence facility. The term "home care agency" shall not be construed to require the regulation and licensure of nonmedical services delivered by or through a religious organization on a small-scale, volunteer basis.

(b) The Mayor shall have the authority to define variant types of facilities and agencies reasonably classified within the broader categories defined in subsection (a) of this section, and may issue rules under section 5 of this act with respect to these subtypes. The Mayor shall make the final determination of whether a particular facility or agency falls within a category defined in subsection (a) or a subtype defined by the Mayor pursuant to this subsection.

(c) When used throughout this act, the terms "facility" and "agency" and their plural forms shall, unless contextually inappropriate or subject to specific exception, apply to all of the facilities and agencies defined in subsection (a) of this section as well as those subtypes defined by the Mayor. The Mayor shall make the final determination of whether a provision is contextually inappropriate for a particular agency or facility.

Sec. 3. License Requirements.
(a) Except as provided in subsections (b), (c), and (d) of this section, it shall be unlawful to operate a facility or agency in the District of Columbia, whether being licensed by the Mayor.

(b) This act shall not apply to a facility or agency operated by the federal government or, except in the case of a church or religious denomination that, in accordance with established tenets, recognizes spiritual healing as the sole means of treating illness.

(c) Facilities and agencies that, prior to the effective date of this act, were not or would not have been subject to licensure in the District of Columbia, may operate without a license until 6 months after the adoption of applicable rules under section 5 of this act.

(d) The continued operation of a facility or agency pending action by the Mayor on an application for licensure renewal or initial licensure under subsection (c) of this section shall not be deemed unlawful if a completed application was timely filed but, through no fault of the facility or agency or its governing body, staff, or employees, the Mayor has failed to act on the application before the expiration of the facility's or agency's current license or, under subsection (c) of this section, its authorized period of operation. A facility or agency operating under this subsection shall comply with all other provisions of this act and rules adopted pursuant to this act.

(e) Application forms shall list all certificates of approval, authority, occupancy, or need that are required as

precondition to lawful operation in the District of Columbia.

(f) A license shall be valid only for the premises

located on the license.

(g) Any change in the ownership of a facility or

agency owned by an individual, partnership, or association,

in the legal or beneficial ownership of 10% or more of

the stock of a corporation that owns or operates a facility

shall be subject to written notice of the change

being given to the governmental licensing authority at least

30 days prior to the change in ownership. Upon

notification, the governmental licensing authority may, at

its discretion, require reinspection and licensure to

ensure that the facility or agency will remain in compliance

with the provisions of this act, rules adopted pursuant to

this act, and all other applicable provisions of law.

(h) Unless sooner terminated or renewed, a license

acquired by this act shall expire 1 year from the date of

issue or the last renewal.

(i) Each facility licensed under this act shall post

its license in a conspicuous place on the premises, and each

agency licensed under this act shall have its license

readily available for inspection by the public.

Sec. 4. Licensure and Health Planning.

(a) The Mayor shall:

(1) ensure that licensing rules are consistent

with certificate of need rules and that both are designed to

facilitate the goals and objectives of the District of

Columbia's state health plan and certificate of need

program; and

(2) conduct an initial inventory of facilities to

determine actual physical bed capacity and operating bed

capacity.

(b) The Mayor shall have the authority to license bed

capacity by specific, well-defined services. For hospitals,

license by type of service shall be limited to the

following categories: medical/surgical; ICU/coronary care;

OB/GYN; nursery; intermediate neonatal and neonatal

intensive care; pediatrics; alcoholism/chemical dependency;

rehabilitation; and psychiatric.

Sec. 5. Rules.

(a) The Mayor shall issue rules, consistent with other

provisions of this act and pursuant to title 1 of the

District of Columbia Administrative Procedure Act, approved

October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et

seq.), establishing:

(1) license fees for private facilities and

agencies reasonably calculated to reflect a facility's or

agency's respective share of the cost of administering the

provisions of this act and rules adopted pursuant to this

act;

(2) procedures deemed necessary to effectuate the

purposes of this act, including, but not limited to,

procedures for:

(A) issuing and renewing licenses;

(B) obtaining variances;

(c) ensuring that 6 months after the adoption of applicable rules under this subsection, licensure of all affected facilities and agencies shall be under the new rules;

(d) waiving the inspection requirements of sections 6(a) and (b) of this act for those agencies that deliver services within the District of Columbia but are headquartered and licensed outside the District of Columbia, when, in the opinion of the Mayor, licensure by another jurisdiction constitutes sufficient evidence that the agency is in substantial compliance with District of Columbia law; (e) processing and following up on complaints by facility and agency staff, consumers, and advocates that are filed with the governmental licensing authority; (f) suspending or revoking the license of a facility or agency that is in violation of any provision of this act, rule adopted pursuant to this act, or other provision of District of Columbia or federal law, or whose governing body, chief executive officer, administrator, or director has made a material misrepresentation of fact to a government official with respect to the facility's or agency's compliance with any provision of this act, rule adopted pursuant to this act, or other provision of District of Columbia or federal law; and (g) appealing from adverse licensure decisions;

(3) standards for the construction and operation of each type of facility and agency, including (where appropriate), but not limited to, standards governing the following: safety and sanitation of facilities; organizational governance and administration; employee and volunteer training; staff membership and delineation of clinical privileges (in addition to the standards set forth in section 8 of this act), and other personnel matters; diagnostic, therapeutic, emergency, anesthesia, laboratory, pharmaceutical, dietary, nursing, rehabilitation, social, and other services; infection control; patient/client/resident care and quality assurance; recordkeeping; utilization review; and internal complaint and appeal procedures; and (4) a statement of patients'/clients'/residents' rights and responsibilities for each type of facility and agency.

(b) For hospitals, nursing homes, and community residence facilities, the rules required by subsection (a) of this section shall be issued no later than 12 months from the effective date of this act. Rules for maternity centers, hospices, and home care agencies shall be issued no later than 18 months from the effective date of this act. (c) In formulating the standards and statements of rights and responsibilities required by subsections (a)(3) and (4) of this section, the Mayor shall, within 30 days after the effective date of this act, appoint an advisory task force for each type of facility and agency. Each task force shall be composed of consumers, providers, advocates, and government agency representatives, and shall be charged with the responsibility of making formal written

recommendations within a time frame established by the Mayor. The Mayor shall give substantial consideration to each task force's recommendations and shall, on a continuing basis before adoption of proposed rules, maintain a dialogue with each task force while reviewing and acting on its recommendations.

(d) Where appropriate, standards adopted under subsection (a)(3) of this section may incorporate, in whole or in part, the standards of private accrediting bodies and standard-setting organizations, as well as the federal conditions of participation and standards for health-insurance and medical-assistance programs. Whenever the standards of a private accrediting body or standard-setting organization are revised and a copy is submitted to the Mayor, the Mayor shall evaluate the revised standards and determine whether any or all of them should be incorporated into new rules.

(e) Community residence facilities shall distribute a copy of the statement required by subsection (a)(4) of this section to each resident's parents, guardian, or other responsible person acting on his or her behalf. All other facilities shall conspicuously post copies of this statement near the main entrance and on every floor. Agencies shall distribute a copy of this statement to each patient/client upon the initial delivery of services. Each copy shall specifically state, in boldface, the address and telephone number of the appropriate in-house or intra-agency personnel and governmental authority to which complaints should be addressed.

(f) In setting standards under subsection (a)(3) of this section, the Mayor shall require that hospice and home care agency programs be centrally administered and organized to ensure effective coordination of all patient/client care services.

(g) Nothing in this section shall be construed to prohibit a facility or agency from supplementing the standards adopted under subsection (a)(3) of this section by establishing internal standards, policies, and procedures that promote safety and quality care, so long as they are reasonable and not inconsistent with this act, rules adopted pursuant to this act, or other District of Columbia law.

sec. 6. Inspections.
(a) To ensure that each new facility and agency will be in compliance with the provisions of this act, rules adopted pursuant to this act, and all other applicable laws and rules, the Mayor shall conduct an on-site inspection prior to a facility's or agency's initial licensure. Instead of issuing a full-year license to a new facility or agency, the Mayor may issue a provisional license under section 7 of this act pending satisfactory completion of additional, follow-up inspections.
(b) After initial licensure the Mayor shall conduct an on-site inspection as a precondition to licensure renewal, except that the Mayor may accept accreditation by a private accrediting body or federal certification for participation in a health-insurance or medical assistance program as evidence of, and in lieu of inspecting for, compliance with