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SENATE BILL NO. 472

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 22.1-323.2, 37.2-408, 63.2-1737, and 66-24 of the Code of Virginia, relating to regulation of group homes and residential facilities for children.

Patrons—Hanger; Delegate: Landes

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-323.2, 37.2-408, 63.2-1737, and 66-24 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-323.2. Licensure of services delivered in group homes and residential facilities for children.

A. The Department of Education shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities and in reducing and simplifying the regulations involved in the licensing and certification of residential schools for students with disabilities. The Board shall promulgate regulations allowing the Department of Education to so assist and cooperate with other state departments.

B. The Board's regulations shall promulgate regulations for licensure of educational programs offered in group homes and residential facilities licensed by the Department of Social Services. Such regulations shall address the educational services required to be provided in such group homes and residential schools facilities as it may deem appropriate to ensure the education and safety of the students. In addition, the Board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such homes or facilities according to the needs of the students; (ii) rules concerning allowable activities, local government- and facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

C. In addition to the requirements set forth in subsection B, the Board's regulations shall require, as a condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally interviewed by Department personnel to determine the qualifications of the owner or operator before granting an initial license; (ii) provide evidence of having relevant prior experience before any initial license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff participation in training on appropriate siting of the residential facilities for children, good neighbor policies, and community relations; and (iv) be required to screen residents prior to admission to exclude individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant residential facility.

D. In addition, the Department shall:

1. Notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in residential facilities for which the Department serves as lead licensure agency when such violations result in the lowering of the licensure status of the facility to provisional;

2. Post on the Department's website information concerning the application for initial licensure or renewal, denial, or provisional licensure of any residential facility for children located in the locality;

3. Require all licensees to self-report lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges that may have been made relating to the health and safety or human rights of residents;

4. Require proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's operational plan; and

5. Modify the term of the license at any time during the term of the license based on a change in compliance.

§ 37.2-408. Regulation of services delivered in group homes or residential facilities for children.

A. The Department shall assist and cooperate with other state departments in fulfilling their respective licensing and certification responsibilities and in reducing and simplifying the regulations involved in such licensing and certification. The Board shall adopt regulations that shall allow the Department to so assist and cooperate with other state departments. The Board may adopt regulations to enhance cooperation and assistance among agencies licensing similar programs.

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59 B. The Board shall promulgate regulations for the licensure of services provided in
60 group homes or residential facilities licensed by the Department of Social Services. Such regulations
61 shall address the services required to be provided in group homes and residential facilities for children
62 as it may deem appropriate to ensure the health and safety of the children. In addition, the Board's
63 regulations shall include, but shall not be limited to (i) specifications for the structure and
64 accommodations of such homes and facilities according to the needs of the children to be placed; (ii)
65 rules concerning allowable activities, local government- and home- or facility-imposed curfews, and
66 study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community
67 liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school
68 system, local law enforcement, local government officials, and the community at large.

69 C. Pursuant to the procedures set forth in subsection D, the Commissioner may issue a summary
70 order of suspension of the license of a group home or residential facility for children licensed pursuant
71 to the Board's regulations under subsection A, in conjunction with any proceeding for revocation, denial,
72 or other action, when conditions or practices exist in the home or facility that pose an immediate and
73 substantial threat to the health, safety, and welfare of the children who are residents and the
74 Commissioner believes the operation should be suspended during the pendency of such proceeding.

75 D. The summary order of suspension shall take effect upon its issuance and shall be served on the
76 licensee or its designee as soon as practicable thereafter by personal service and certified mail, return
77 receipt requested, to the address of record of the licensee. The order shall state the time, date, and
78 location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no
79 later than three business days after the issuance of the summary order of suspension and shall be
80 convened by the Commissioner or his designee.

81 After such hearing, the Commissioner may issue a final order of summary suspension or may find
82 that such summary suspension is not warranted by the facts and circumstances presented. A final order
83 of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to
84 the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before
85 the court shall be whether the Department had reasonable grounds to require the licensee to cease
86 operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent
87 revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the
88 appropriateness of the summary suspension.

89 The willful and material failure to comply with the summary order of suspension or final order of
90 summary suspension shall be punishable as a Class 2 misdemeanor. The Commissioner may require the
91 cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who
92 are residents of a home or facility whose license has been summarily suspended pursuant to this section
93 and in any other actions necessary to reduce the risk of further harm to children.

94 E. In addition to the requirements set forth above, the Board's regulations shall require, as a
95 condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally
96 interviewed by Department personnel to determine the qualifications of the owner or operator before
97 granting an initial license; (ii) provide evidence of having relevant prior experience before any initial
98 license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff
99 participation in training on appropriate siting of the residential facilities for children, good neighbor
100 policies, and community relations; and (iv) be required to screen residents prior to admission to exclude
101 individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant
102 residential facility.

103 F. In addition, the Department shall:

104 1. Notify relevant local governments and placing and funding agencies, including the Office of
105 Comprehensive Services, of multiple health and safety or human rights violations in residential facilities
106 for which the Department serves as lead licensure agency when such violations result in the lowering of
107 the licensure status of the facility to provisional;

108 2. Post on the Department's website information concerning the application for initial licensure of or
109 renewal, denial, or provisional licensure of any residential facility for children located in the locality;

110 3. Require all licensees to self-report lawsuits against or settlements with residential facility operators
111 relating to the health and safety or human rights of residents and any criminal charges that may have
112 been made relating to the health and safety or human rights of residents;

113 4. Require proof of contractual agreements or staff expertise to provide educational services,
114 counseling services, psychological services, medical services, or any other services needed to serve the
115 residents in accordance with the facility's operational plan; and

116 5. Modify the term of the license at any time during the term of the license based on a change in
117 compliance.

118 § 63.2-1737. Licensure of group homes and residential facilities for children.

119 A. Notwithstanding any other provisions of this subtitle, the Department shall cooperate with other
120 state departments in fulfilling their respective licensing and certification responsibilities and in reducing

and simplifying the regulations involved in such licensing and certification of children's residential facilities. The Board shall adopt regulations for the interdepartmental regulation of children's residential facilities, including group homes that shall allow the Department to assist and cooperate with other state departments in fulfilling their respective licensing and certification responsibilities and in reducing and simplifying the regulations involved in such licensing and certification. Notwithstanding any other provisions of this chapter, licenses issued to children's residential facilities pursuant to cooperative efforts described in this section may be issued for periods of up to 36 successive months.

B. The Board's regulations for the interdepartmental regulation of children's residential facilities shall address the services required to be provided in such facilities as it may deem appropriate to ensure the health and safety of the children. In addition, the Board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the children; (ii) rules concerning allowable activities, local government- and facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

C. Notwithstanding any other provisions of this chapter, any facility licensed by the Commissioner as a child-caring institution as of January 1, 1987, and that receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as adopted by the Board and in effect on January 1, 1987. Effective January 1, 1987, all children's residential facilities shall be licensed under the interdepartmental regulations for children's residential facilities.

D. Pursuant to the procedures set forth in subsection E and in addition to the authority for other disciplinary actions provided in this title, the Commissioner may issue a summary order of suspension of the license of any group home or residential facility for children, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety, and welfare of the children who are residents and the Commissioner believes the operation of the home or facility should be suspended during the pendency of such proceeding.

E. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Commissioner or his designee.

After such hearing, the Commissioner may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Commissioner had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Commissioner may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who are residents of a home or facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to such residents.

F. In addition to the requirements set forth in subsection B, the Board's regulations shall require, as a condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally interviewed by Department personnel to determine the qualifications of the owner or operator before granting an initial license; (ii) provide evidence of having relevant prior experience before any initial license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff participation in training on appropriate siting of the residential facilities for children, good neighbor policies, and community relations; and (iv) be required to screen residents prior to admission to exclude individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant residential facility.

G. In addition, the Department shall:

1. Notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in residential facilities for which the Department serves as lead licensure agency licensed by the Department when such violations result in the lowering of the licensure status of the facility to provisional;

2. Post on the Department's website information concerning the application for initial licensure of or

renewal, denial, or provisional licensure of any residential facility for children located in the locality;

3. Require all licensees to self-report lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges that may have been made relating to the health and safety or human rights of residents;

4. Require proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's operational plan;

5. Disseminate to local governments, or post on the Department's website, an accurate (updated weekly or monthly as necessary) list of licensed and operating group homes and other residential facilities for children by locality with information on services and identification of the lead licensure agency; and

6. Modify the term of the license at any time during the term of the license based on a change in compliance.

§ 66-24. Community group homes and other residential facilities for certain juveniles; licensure; personnel; summary suspension under certain circumstances; penalty.

A. The Department of Juvenile Justice shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities and in reducing and simplifying the regulations involved in the licensing or certification of children's residential facilities. The Board shall promulgate regulations that shall allow the Department to so assist and cooperate with other state departments.

B.A. The Department is authorized to establish and maintain such a system of community group homes or other residential care facilities as the Department may from time to time acquire, construct, contract for or rent for the care of juveniles in direct state care, pending development of more permanent placement plans. Any community group home or other residential care facility that the Department may contract for or rent for the care of juveniles in direct state care shall be licensed or certified in accordance with the regulations of the Board.

Any more permanent placement plans shall consider adequate care and treatment, and suitable education, training and employment for such juveniles, as is appropriate.

C.B. The Department is further authorized to employ necessary personnel for community group homes or other residential care facilities or to contract with private entities for their operation.

D.C. The Board shall promulgate regulations for licensure or certification of community group homes or other residential care facilities that contract with or are rented for the care of juveniles in direct state care pursuant to subsection BA.

The Board's regulations shall address the services required to be provided in such facilities as it may deem appropriate to ensure the welfare and safety of the juveniles. In addition, the Board's regulations shall include, but need not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the juveniles to be placed in the home or facility; (ii) rules concerning allowable activities, local government- and group home- or residential care facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each home or facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

E.D. Pursuant to the procedures set forth in subsection FE and in addition to any other legally authorized disciplinary actions, the Director may issue a summary order of suspension of the license or certificate of any group home or residential facility so regulated by the Department, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety, and welfare of the juveniles who are residents and the Director believes the operation of the home or facility should be suspended during the pendency of such proceeding.

F.E. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or certificate holder or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee or certificate holder. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Director or his designee.

After such hearing, the Director may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee or certificate holder may appeal the Director's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Director had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

244 The willful and material failure to comply with the summary order of suspension or final order of
245 summary suspension shall be punishable as a Class 2 misdemeanor. The Director may require the
246 cooperation of any other agency or subdivision of the Commonwealth in the relocation of the juveniles
247 who are residents of a home or facility whose license or certificate has been summarily suspended
248 pursuant to this section and in any other actions necessary to reduce the risk of further harm to such
249 residents.

250 ~~G.F.~~ In addition to the requirements set forth above, the Board's regulations shall require, as a
251 condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally
252 interviewed by Department personnel to determine the qualifications of the owner or operator before
253 granting an initial license; (ii) provide evidence of having relevant prior experience before any initial
254 license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff
255 participation in training on appropriate siting of the residential facilities for children, good neighbor
256 policies, and community relations; and (iv) be required to screen residents prior to admission to exclude
257 individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant
258 residential facility.

259 ~~H.G.~~ In addition, the Department shall:

260 1. Notify relevant local governments and placing and funding agencies, including the Office of
261 Comprehensive Services, of multiple health and safety or human rights violations in residential facilities
262 ~~for which the Department serves as lead agency~~ *licensed by the Department* when such violations result
263 in the lowering of the licensure or certification status of the facility to provisional;

264 2. Post on the Department's website information concerning the application for initial licensure or
265 certification of or renewal, denial, or provisional licensure or certification of any residential facility for
266 children located in the locality;

267 3. Require all licensees or certificate holders to self-report lawsuits against or settlements with
268 residential facility operators relating to the health and safety or human rights of residents and any
269 criminal charges that may have been made relating to the health and safety or human rights of residents;

270 4. Require proof of contractual agreements or staff expertise to provide educational services,
271 counseling services, psychological services, medical services, or any other services needed to serve the
272 residents in accordance with the facility's operational plan; and

273 5. Modify the term of the license or certificate at any time during the term of the license or
274 certificate based on a change in compliance.