

CHAPTER 270

AN ACT concerning community care residential providers.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:6D-32.1 Findings, declarations relative to community care residential providers.

1. The Legislature finds and declares that:

a. Community care residential providers for adults with developmental disabilities in the State of New Jersey, as defined by N.J.A.C.10:44B-1.3, provide an essential service by providing care and training to adults with developmental disabilities;

b. The State, through the Department of Human Services, is vested with the regulatory authority, including but not limited to the establishment of reimbursement rates, and the administrative oversight responsibility for the licensing of facilities and operation of community care residential provider homes;

c. Pursuant to its statutory and regulatory authority, the Department of Human Services is authorized to contract with a qualified third party agency or entity to provide oversight with respect to various administrative functions, including but not limited to the processing of board payments and/or cost-of-care payments to community care residential providers;

d. To ensure quality standards of care, it is in the public interest for the State to maintain community care residential provider homes for adults with developmental disabilities and to encourage the recruitment and retention of community care residential providers that are delivering these vital services; and

e. A majority of community care residential providers have authorized the Communications Workers of America, AFL-CIO (CWA) to be their exclusive representative through individually-signed authorizations and the New Jersey State Board of Mediation has certified CWA to represent community care residential providers.

C.30:6D-32.2 Agreement between community care residential providers and State.

2. a. The Commissioner of the New Jersey Department of Human Services, on behalf of the State of New Jersey, shall meet in good faith with the CWA, as the recognized exclusive majority representative of all community care residential providers, for the purpose of entering into a written agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon or after the effective date of this act, regarding reimbursement rates, payment procedures, benefits, health and safety conditions and any other matters that would improve recruitment and retention of qualified community care residential providers and the quality of the programs they provide, subject to the provisions of this section. Although community care residential providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter provided the parties act in good faith.

b. The purpose of this section is to permit community care residential providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and state antitrust laws for any action of the State, or joint action of community care residential providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any community care residential providers

subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.

c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing and shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the “New Jersey Employer-Employee Relations Act,” P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

C.30:6D-32.3 Construction of act.

3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act shall be construed as:

a. Interfering with the rights of the Department of Human Services to place or remove clients from the homes of community care residential providers;

b. Interfering with the rights of individuals with developmental disabilities or their parents or guardians, including the right to change placements;

c. Granting community care residential providers any right to engage in a strike or collective cessation of the delivery of services; or

d. Granting community care residential providers status as employees of the State for the purposes of the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq., the New Jersey “Temporary Disability Benefits Law,” P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey “unemployment compensation law,” R.S.43:21-1 et seq., and the Workers’ Compensation Law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for purposes indicated in section 1 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in that section.

C.30:6D-32.4 Authority of DHS intact.

4. No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency, or in any other capacity, in the placement and care of persons with developmental disabilities.

5. This act shall take effect immediately.

Approved January 17, 2010.