

CHAPTER NO. 299

HOUSE BILL NO. 180

By Representatives Maddox, Kisber, Fitzhugh, Ridgeway, Shepard, Pinion

Substituted for: Senate Bill No. 688

By Senator Ford

AN ACT to amend Tennessee Code Annotated, Title 33, Chapter 2, relative to sanctions against licensees of the department of mental health and developmental disabilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 2, is amended by adding a new section to be designated as Section 33-2-408 and renumbering the existing sections accordingly. The new section shall read as follows:

Section 33-2-408.

(a) All proceedings by the division of mental retardation services, to impose sanctions against licensed entities under this title shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. The proceedings shall include notice and opportunity for a hearing before an administrative law judge who shall issue an initial order.

(b) Sanctions shall include any action by the division, based upon alleged deficient practices of the licensed entity, to impose financial or contractual penalties including the following:

(1) Financial penalties shall include fines, liquidated damages or denial, withholding or delay of a payment as a sanction against such entity.

(2) Imposition of moratoria on admissions when such limitations are unrelated to state budget considerations.

(3) Actions against the entity based upon allegations that the entity is responsible for abuse, neglect or mistreatment of an individual for whom the entity is responsible.

(c) Sanctions do not include any action to recoup monies that are determined by the division to be unearned, according to stipulations specified in the provider agreement between the division and the provider.

(d) The provisions of this section shall not prevent termination of any contract with the licensed entity in accordance with the provisions of that contract. In such cases the contractor shall have only the due process rights, if any, otherwise provided by law regarding termination of state contracts.

(e) All sanctions, except for financial sanctions, may be imposed immediately by the division. This does not prevent the provider from appealing the decision using the UAPA process.

(f) These requirements shall not prevent the division or the provider from pursuing alternative means of resolving issues related to sanctions while the UAPA process is pending.

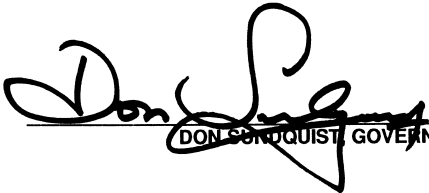
SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 16, 2001

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 29<sup>th</sup> day of May 2001

  
DON SUNDQUIST, GOVERNOR