

Act on Social Welfare for the Elderly

(Act No. 133 of July 11, 1963)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to clarify the principles governing welfare for the elderly, to implement measures for elderly persons as may be necessary for the maintenance of their physical and mental health and for the stabilization of their livelihoods, and thereby to promote the welfare of the elderly.

(Basic Principles)

Article 2 Elderly persons, as persons who have contributed to the development of society for many years and who have abundant knowledge and experience, shall be respected as such, and healthy and comfortable lives that make living worthwhile shall be secured therefor.

Article 3 (1) Efforts shall be made so that, through a recognition of the changes within the mind and body that are caused by aging, elderly persons may maintain their physical and mental health at all times, and efforts shall also be made so that the elderly may take advantage of their knowledge and experience and participate in social activities.

(2) Elderly persons shall be afforded opportunities to engage in suitable work or to otherwise participate in social activities, depending on their preferences and capabilities.

(Responsibility to Improve the Welfare of the Elderly)

Article 4 (1) The State and local governments shall have a responsibility to

promote the welfare of the elderly.

- (2) The State and local governments shall, in implementing policy measures related to the welfare of the elderly, pay due regard so that such policy measures embody the basic principles set forth in the preceding two Articles.
- (3) A person who carries out services that directly affect the lives of elderly persons shall, in carrying out such services, endeavor to improve the welfare of the elderly.

- Article 5 (1) A senior citizens' day and senior citizens' week shall be stipulated, with the objective of widening citizens' interest in and understanding toward the welfare of the elderly and motivating elderly persons to pursue better lives.
- (2) Senior citizens' day shall be September 15, and senior citizens' week shall be the period from September 15 through September 21.
 - (3) The State shall endeavor to implement projects on senior citizens' day, which shall be fit for the purpose thereof. The State and local governments shall encourage senior citizens' organizations and any other parties to implement programs appropriate to the purport of senior citizens' week during said week.

(Definitions)

- Article 5-2 (1) The term "in-home elderly support services" as used in this Act collectively means an in-home elderly nursing care services, elderly daycare services, short-term in-patient services for the elderly, multifunctional long-term care services in a small group home, and daily support services for dementia patients in communal living situations.
- (2) The term "in-home elderly nursing care services" as used in this Act means services to provide nursing care, such as that for bathing, using the restroom, meals, and any other services as prescribed by Ordinance of the Ministry of Health, Labour and Welfare as being a necessary accommodation to the daily activities of a person for whom the measures set forth in Article 10-4, paragraph (1), item (i) have been implemented, a person covered by the allowance for long-term in-home care services in relation to long-term domiciliary care, the allowance for community-based, long-term care services in relation to long-term overnight domiciliary care, or the long-term preventative care services allowance in relation to domiciliary services for long-term preventative care as provided for in the Long-Term Care Insurance Act (Act No. 123 of 1997) or of any other person prescribed by Cabinet Order, at such person's own home.
 - (3) The term "elderly daycare services" as used in this Act means services to provide accommodation, such as that for bathing, using the restroom, meals, functional training and guidance on nursing care methods, and other services as prescribed by Ordinance of the Ministry of Health, Labour and Welfare, for

a person for whom the measures under Article 10-4, paragraph (1), item (ii) have been implemented, for a person covered by the allowance for long-term in-home care services in relation to long-term outpatient day care, the allowance for community-based long-term care services in relation to long-term outpatient care for dementia patients, the long-term preventative care services allowance in relation to long-term outpatient preventative care or allowance for community-based long-term preventative care services in relation to long-term preventative care for dementia outpatients as set forth in the Long-Term Care Insurance Act or for any other person prescribed by Cabinet Order (including his/her actual caregivers), by allowing such person to regularly go to an intensive care home for the elderly or any other facility prescribed by Ordinance of the Ministry of Health, Labour and Welfare.

(4) The term "short-term in-patient services for the elderly" as used in this Act means services to provide accommodation for a person for whom the measures under Article 10-4, paragraph (1), item (iii) have been implemented, a person covered by the allowance for long-term in-home care services in relation to a short-term in-patient admission within long-term daily care, the long-term preventative care services allowance in relation to a short-term in-patient admission within daily long-term preventative care as set forth in the Long-Term Care Insurance Act, or for any other person as prescribed by Cabinet Order, by allowing his/her short-term in-patient admission to an intensive care home for the elderly or any other facility prescribed by Ordinance of the Ministry of Health, Labour and Welfare for a short term, as well as services to care for such persons.

(5) The term "multifunctional long-term care services in a small group home" as used in this Act means services to provide nursing care, such as for bathing, using the restroom, meals, and any other services that are necessary accommodations for daily life as prescribed by Ordinance of the Ministry of Health, Labour and Welfare, and to provide functional training, for a person for whom the measures set forth in Article 10-4, paragraph (1), item (iv) have been implemented, a person covered by the allowance for community-based long-term care in relation to multifunctional long-term care in a small group home, or the allowance for community-based long-term preventative care in relation to multifunctional long-term preventative care in a small group home as provided for in the Long-Term Care Insurance Act, or for any other person prescribed by Cabinet Order, at his/her home, by having him/her regularly visit care services facilities as specified by Ordinance of the Ministry of Health, Labour and Welfare, or by having him/her stay at such facilities for a short term, in accordance with factors such as his/her mental and physical condition and his/her environment, and based on his/her own election.

(6) The term "daily support services for dementia patients in communal living

situations" as used in this Act means services to provide support, such as for bathing, using the restroom, meals, and any other support for the daily activities of a person for whom the measures set forth in Article 10-4, paragraph (1), item (v) have been implemented, or for a person covered by the allowance for community-based long-term care services in relation to long-term daily care for dementia patients in communal living situations or the allowance for community-based long-term preventative care services in relation to long-term preventative care for dementia patients in communal living situations as set forth in the Long-Term Care Insurance Act, or for any other person prescribed by Cabinet Order, at a communal residence where such persons to live.

Article 5-3 The term "welfare facility for the elderly" as used in this Act means, collectively, an elderly daycare center, short-term in-patient facility for the elderly, nursing home for the elderly, intensive care home for the elderly, low-cost home for the elderly, welfare center for the elderly and long-term care support center.

(Parties in Charge of Implementing Welfare Measures)

Article 5-4 (1) Welfare measures as set forth in Article 10-4 and Article 11 for a person who is 65 years of age or older (including a person who is under 65 years of age but who is found to have special needs; the same shall apply hereinafter) or a person who actually takes care of him/her (hereinafter referred to as a "caregiver") shall be implemented by the municipality in which he/she resides, in cases where he/she has a residence, or by the municipality of the place where he/she actually lives, in cases where he/she has no residence or where his/her residence is unknown; provided, however, that with regard to a person who is 65 years of age or older who has been accommodated in a facility pursuant to the provisions of Article 11, paragraph (1), item (i) or (ii) of this Act or the proviso to Article 30, paragraph (1) of the Public Assistance Act (Act No. 144 of 1950), such measures shall be implemented by the municipality where such person had a residence before entering the accommodation facility, in cases where he/she had a residence, or by the municipality in which such a person was living before entering the accommodation facility, in cases where he/she did not have a residence before entering the accommodation facility or where his/her residence was unknown.

(2) A municipality shall, in connection with the enforcement of this Act, perform the functions listed in the following items:

- (i) to endeavor to gain information on the actual status of welfare for the elderly as necessary; and
- (ii) to provide the necessary information and counseling and to carry out any

investigations and guidance that is necessary in connection with welfare for the elderly, as well as to perform any functions incidental thereto.

(Municipal Welfare Offices)

Article 5-5 A welfare office (meaning a welfare office as defined in the Social Welfare Act (Act No. 45 of 1951); the same shall apply hereinafter) established by a municipality shall, in connection with the enforcement of this Act, primarily perform the functions listed in the items of paragraph (2) of the preceding Article.

(Social Welfare Officers of Municipal Welfare Offices)

Article 6 A city, or a town/village that has established a welfare office shall assign a social welfare officer at the welfare office it has established, to be an official who shall, in compliance with the instructions and supervision of the head of the welfare office (hereinafter referred to as the "head of the welfare office"), primarily perform the following functions:

- (i) to provide technical guidance related to welfare for the elderly to officials of the welfare office; and
- (ii) to perform functions as prescribed in Article 5-4, paragraph (2), item (ii), which require expert skills.

(Parties in Charge of Liaison and Coordination, etc.)

Article 6-2 (1) A prefecture shall, in connection with the enforcement of this Act, perform the functions listed in the following items:

- (i) to act as a liaison or coordinator among municipalities and to provide municipalities with information or any other necessary assistance, in relation to the implementation of welfare measures under this Act; to perform functions incidental thereto; and
 - (ii) to endeavor to gain information on the actual status of welfare for the elderly, from a broad perspective beyond the regional jurisdictions of each of the municipalities.
- (2) A prefectural governor may, if he/she deems it necessary to ensure the proper implementation of welfare measures under this Act, give necessary advice to municipalities.
- (3) A prefectural governor may delegate all or part of the affairs to be handled by the prefecture pursuant to the provisions of this Act, to the head of the welfare office under his/her jurisdiction.

(Social Welfare Officers of Prefectural Welfare Offices)

Article 7 A prefecture may assign a social welfare officer at the welfare office it has established to be an official who shall, in compliance with the instructions

and supervision of the head of the welfare office, primarily perform the functions listed in item (i), paragraph (1) of the preceding Article which require expert skills.

(Cooperation by Health Centers)

Article 8 A health center shall, in connection with welfare for the elderly, provide welfare facilities for the elderly, etc. with the necessary cooperation on nutritional improvement and on matters related to sanitation.

(Cooperation of Commissioned Welfare Volunteers)

Article 9 A commissioned welfare volunteer as set forth in the Commissioned Welfare Volunteers Act (Act No. 198 of 1948) shall, in connection with the enforcement of this Act, cooperate with the mayor of the municipality, the head of the welfare office or the social welfare officer in the execution of their respective affairs.

(Measures for Nursing Care, etc.)

Article 10 In addition to what is provided for in this Act, the measures related to nursing care, etc. for elderly persons who suffer difficulties in their daily activities due to physical or mental impairment shall be as prescribed by the Long-Term Care Insurance Act.

(Collaboration and Coordination)

Article 10-2 For the purpose of implementing the welfare measures under this Act, an effort shall be made so that such measures will be implemented in collaboration and coordination with the measures set forth in the Long-Term Care Insurance Act referred to in the preceding Article.

Chapter II Welfare Measures

(Establishment of Support Systems)

Article 10-3 (1) A municipality shall endeavor to positively implement the measures under Articles 10-4 and 11 and any other responsive measures adapted to the actual circumstances of the region, so that a person who is 65 years of age or older and who suffers difficulties with activities in his/her daily life due to physical or mental impairment may enjoy comprehensive support, in accordance with his/her mental condition and his/her environment, as may be most appropriate for enabling him/her to live a self-sufficient daily life. The municipality also shall endeavor to put in place systems adapted to the actual circumstances of the region, such as ensuring collaboration with and coordination among such measures, or in-home services, community-based

services, long-term in-home care support, facility services, long-term preventative care services, community-based services for long-term preventative care and long-term preventative care support as set forth in the Long-Term Care Insurance Act, or the activities of senior citizens' groups and persons who provide any other services aimed at the promotion of welfare for the elderly.

- (2) A municipality shall, in establishing the system as set forth in the preceding paragraph, pay due consideration so that a person who is 65 years of age or older may continue his/her everyday life at his/her own home even in the case where he/she has suffered any difficulty in his/her daily life due to any physical or mental impairment.

(Home-Based Nursing Care, etc.)

Article 10-4 (1) A municipality may implement the following measures as the necessity arises:

- (i) in cases where the municipality finds that, due to any unavoidable circumstances, it is extremely difficult for a person who is 65 years of age or older and who suffers difficulty with activities in his/her daily life due to any physical or mental impairment to utilize long-term domiciliary care, long-term overnight domiciliary care or domiciliary services for long-term preventative care as set forth in the Long-Term Care Insurance Act, a measure to provide such person with the services prescribed by Ordinance of the Ministry of Health, Labour and Welfare as referred to in Article 5-2, paragraph (2) at his/her own home, or to consign a person other than said municipality to provide such services, in accordance with the standards as specified by Cabinet Order;
- (ii) in cases where the municipality finds that, due to any unavoidable circumstances, it is extremely difficult for a person who is 65 years of age or older and who suffers difficulty with activities in his/her daily life due to any physical or mental impairment to utilize long-term outpatient day care, long-term outpatient care for a dementia patient, long-term outpatient preventative care or long-term preventative care for a dementia outpatient as set forth in the Long-Term Care Insurance Act, a measure to cause such person (including his/her caregiver) to attend an elderly daycare center established by the municipality or a facility specified by Ordinance of the Ministry of Health, Labour and Welfare as referred to in Article 5-2, paragraph (3) (hereinafter collectively referred to as an "elderly daycare center, etc.") and to provide such person with services specified by Ordinance of the Ministry of Health, Labour and Welfare as referred to in said paragraph, or to make a consignment to cause such person to attend an elderly daycare center, etc. established by a person other than the

municipality and to provide the services, in accordance with the standards specified by Cabinet Order;

- (iii) in cases where the municipality finds that, due to any unavoidable circumstances, it is extremely difficult for a person who is 65 years of age or older and for whom it has temporarily become difficult to receive home-based nursing care because of circumstances such as the sickness of his/her caregiver to utilize short-term in-patient admission within long-term daily care or short-term in-patient admission within daily long-term preventative care as set forth in the Long-Term Care Insurance Act, a measure to accommodate such person in a short-term in-patient facility for the elderly established by such municipality or a facility specified by Ordinance of the Ministry of Health, Labour and Welfare as referred to in Article 5-2, paragraph (4) (hereinafter collectively referred to as the "short-term in-patient facility for the elderly, etc.") and to take care of him/her for a short period, or to make a consignment to accommodate him/her in a short-term in-patient facility for the elderly, etc. established by a person other than such municipality and take care of him/her for a short period, in accordance with the standards specified by Cabinet Order;
- (iv) in cases where the municipality finds that, due to any unavoidable circumstances, it is extremely difficult for a person who is 65 years of age or older and who suffers difficulty with activities in his/her daily life due to physical or mental impairment to make use of multifunctional long-term care in a small group home or multifunctional long-term preventative care in a small group home as set forth in the Long-Term Care Insurance Act, a measure to provide such person with the services and functional training specified by Ordinance of the Ministry of Health, Labour and Welfare as referred to in Article 5-2, paragraph (5) at his/her own home, or to cause such person to attend, or stay for a short period at, a care services facility specified by Ordinance of the Ministry of Health, Labour and Welfare as referred to in said paragraph so as to provide him/her with such services and functional training, or to consign a person other than such municipality to provide such services and functional training, in accordance with the criteria specified by Cabinet Order; and
- (v) in cases where the municipality finds that, due to any unavoidable circumstances, it is extremely difficult for a person who is 65 years of age or older and who suffers difficulty with his/her daily life activities due to dementia (meaning dementia as set forth in Article 8, paragraph (16) of the Long-Term Care Insurance Act; the same shall apply hereinafter) (excluding a person for whom the disease triggering the dementia is in acute condition) to utilize long-term communal care for dementia patients in communal living situations or long-term preventative care for dementia patients in communal

living situations as set forth in said Act, to provide such person with nursing care services such as for bathing, using the restroom, meals, etc. or any other daily life assistance at his/her residence as referred to in Article 5-2, paragraph (6), or to consign a person other than such municipality to provide nursing care services such as bathing, using the restroom, meals, etc. or any other daily life assistance at such residence, in accordance with the standards specified by Cabinet Order.

- (2) A municipality may implement the measures as set forth in each of the items of the preceding paragraph for a person who is 65 years of age or older and who suffers difficulty with activities in his/her daily life due to any physical or mental impairment, and, in addition to this, may take measures to provide or lend equipment for facilitating his/her daily life activities as designated by the Minister of Health, Labour and Welfare or to consign a person other than such municipality to provide or lend such equipment, for the purpose of securing such person's welfare and as the necessity arises.

(Accommodation in Nursing Homes for the Elderly and Other Measures)

Article 11 (1) A municipality shall implement the following measures as the necessity arises:

- (i) to allow a person who is 65 years of age or older with environmental and financial reasons (limited to the reasons specified by Cabinet Order) that make it difficult for him/her to receive care at home, to be admitted to a nursing home for the elderly established by such municipality, or to entrust a nursing home for the elderly established by a person other than such municipality with the admission of such a person;
- (ii) in cases where the municipality finds that, due to any unavoidable circumstances, it is extremely difficult to admit a person who is 65 years of age or older and who, due to substantial physical or mental impairment, requires full-time nursing care that is difficult for him/her to receive at home, to a community-based facility for the elderly covered by public aid requiring long-term care or a facility covered by public aid providing long-term care to the elderly as set forth in the Long-Term Care Insurance Act, measures to admit such person to an intensive care home for the elderly established by the municipality, or to entrust an intensive care home for the elderly established by a person other than the municipality with the admission of such a person; and
- (iii) to entrust a delegated caregiver (meaning a person who wishes to take custody of an elderly person and to take care of him/her, and whom the mayor of the municipality finds to be appropriate; the same shall apply hereinafter) as specified by Cabinet Order to take care of a person who is 65 years of age or older and who either has no caregiver or who has a caregiver

by whom it is found inappropriate for him/her to be cared for.

(2) In cases of the death of a person for whom, pursuant to the provision of the preceding paragraph, the municipality had provided accommodation in a nursing home for the elderly or an intensive care home for the elderly or had made a consignment thereof, or a person for whom, pursuant to the provision of the preceding paragraph, the municipality had consigned a consigned caregiver to provide care, and in cases of the absence of a person to perform the funeral service (including treatment necessary for funeral services; the same shall apply hereinafter), the municipality may perform such funeral service, or may implement a measure to consign the performance of such funeral service to the nursing home for the elderly, intensive care home for the elderly or a consigned caregiver who had accommodated or taken care of such elderly person.

(Explanation, etc. upon Cancellation of Measures)

Article 12 In cases where the mayor of municipality intends to cancel the measure under Article 10-4 or Article 11, paragraph (1), he/she shall provide a person for whom the measure was implemented with a prior explanation of the reason for cancelling such measure and seek his/her opinions; provided, however, that this shall not apply in the case where the person for whom the measure was implemented had requested the cancellation of such measure or in any other cases specified by Ordinance of the Ministry of Health, Labour and Welfare.

(Exclusion from Application of the Administrative Procedures Act)

Article 12-2 The provisions of Chapter III (excluding Articles 12 and 14) of the Administrative Procedure Act (Act No. 88 of 1993) shall not be applied to a disposition to cancel the measure implemented under Article 10-4 or Article 11, paragraph (1).

(Programs to Promote the Welfare of the Elderly)

Article 13 (1) A local government shall endeavor to hold educational seminars and recreational events to facilitate the maintenance of elderly persons' physical and mental health, and any other program widely available for elderly persons' voluntary and active participation (hereinafter referred to as an "senior health programs").

(2) Local governments shall commit to the advancement of the programs aimed at promoting the welfare of the elderly, and shall endeavor to provide appropriate assistance to senior citizens' groups or any person implementing those programs.

(Promotion of Research and Development)

Article 13-2 The State shall endeavor to promote research and development for nursing care methods that respond to the psychosomatic attributes of the elderly, as well as research and development for equipment to facilitate activities in elderly persons' daily lives and equipment for functional training intended for use by persons suffering difficulties with activities in their daily lives due to physical or mental impairment.

Chapter III Services and Facilities

(Commencement of In-Home Elderly Support Services)

Article 14 A person other than the State or prefecture may, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, engage in in-home elderly support services, provided that such person shall, in advance, notify the prefectural governor of the matters specified by Ordinance of the Ministry of Health, Labour and Welfare.

(Changes)

Article 14-2 A person who has made a notification pursuant to the provisions of the preceding Article shall notify the prefectural governor of any changes to the matters specified by Ordinance of the Ministry of Health, Labour and Welfare, within one month from the day when the change was effected.

(Abolition or Suspension)

Article 14-3 In cases where a person other than the State and prefecture intends to abolish or suspend the in-home elderly support services, such person shall, no later than one month prior to the day of the abolition or suspension, notify the prefectural governor of the matters specified by Ordinance of the Ministry of Health, Labour and Welfare.

(Measures to Preserve Advance Payments)

Article 14-4 A person who provides daily support services for dementia patients in communal living situations which, as an advance payment, receives a lump-sum payment for all or part of the rent periodically receivable during the elderly person's lifetime or any other payment prescribed by Ordinance of the Ministry of Health, Labour and Welfare, shall expressly disclose in writing the basis of the calculation for such advance payment; and shall, in order to be prepared for circumstances whereby said provider would bear the obligation to reimburse such advance payment, implement the necessary protective measures, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare.

(Establishment of Facilities)

Article 15 (1) A prefecture may establish welfare facilities for the elderly.

(2) A person other than the State or prefecture may, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, establish an elderly daycare center, short-term in-patient facility for the elderly or a long-term care support center, provided that such person shall, in advance, notify the prefectural governor of the matters specified in Ordinance of the Ministry of Health, Labour and Welfare.

(3) A municipality and a local incorporated administrative agency (meaning a local incorporated administrative agency as set forth in Article 2, paragraph (1) of the Local Incorporated Administrative Agency Act (Act No. 118 of 2003); the same shall apply in Article 16, paragraph (2)) may, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, establish a nursing home for the elderly or an intensive care home for the elderly, provided that such person shall, in advance, notify the prefectural governor of the matters prescribed by Ordinance of the Ministry of Health, Labour and Welfare.

(4) A social welfare corporation may, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, establish a nursing home for the elderly or an intensive care home for the elderly, provided that such juridical person shall obtain an authorization from the prefectural governor.

(5) A person other than the State and prefecture may, pursuant to the provisions of the Social Welfare Act, establish a low-cost home for the elderly or a welfare center for the elderly.

(6) When the application for authorization under paragraph (4) has been filed, the prefectural governor may decide not to grant an authorization under paragraph (4), in cases where the total maximum capacity of the nursing homes for the elderly or intensive care homes for the elderly located in the district (meaning the district to be designated by the prefecture pursuant to the provision of Article 118, paragraph (2), item (i) of the Long-Term Care Insurance Act) covering the nursing home for the elderly or an intensive care home for the elderly for which the application was filed has already reached the total required maximum capacity for nursing homes for the elderly or intensive care homes for the elderly located in the district as specified in the prefectural elderly welfare plan formulated by the prefecture pursuant to the provision of Article 20-9, paragraph (1); where the prefectural governor finds that the establishment of the nursing home for the elderly or an intensive care home for the elderly for which the application was filed would result in the authorized number of residents in excess of such maximum capacity; or in any other cases where the prefectural governor finds that the establishment thereof may prejudice the attainment of the prefectural welfare plan for the elderly.

(Changes)

- Article 15-2 (1) A person who has made a notification pursuant to the provision of paragraph (2) of the preceding Article shall notify the prefectural governor of any change to the matters specified by Ordinance of the Ministry of Health, Labour and Welfare, if any, within one month from the day when the change was effected.
- (2) In cases where a person who has made a notification under paragraph (3) of the preceding Article or who has obtained an authorization under paragraph (4) of said Article intends to effect any change to the matters prescribed by Ordinance of the Ministry of Health, Labour and Welfare, such person shall, in advance, notify the prefectural governor to that effect.

(Abolition; Suspension; or Reduction or Increase of Maximum Capacity)

- Article 16 (1) In cases where a person other than the State and prefecture intends to abolish or suspend an elderly daycare center, short-term in-patient facility for the elderly or long-term care support center, such person shall, no later than one month prior to the day of the abolition or suspension, notify the prefectural governor of the matters prescribed by Ordinance of the Ministry of Health, Labour and Welfare.
- (2) In cases where a municipality and a local incorporated administrative agency intend to abolish or suspend a nursing home for the elderly or an intensive care home for the elderly, or to reduce or increase the maximum capacity thereof, it shall, no later than one month prior to the day of such abolition, suspension, or the reduction or increase of the maximum capacity, notify the prefectural governor of the matters specified by Ordinance of the Ministry of Health, Labour and Welfare.
- (3) In cases where a social welfare corporation intends to abolish or suspend a nursing home for the elderly or an intensive care home for the elderly, or to reduce or increase the maximum capacity thereof, it shall, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, obtain authorization from the prefectural governor with regard to timing of such abolition, suspension or the reduction of maximum capacity, or with regard to increase of the maximum capacity.
- (4) The provision of Article 15, paragraph (6) shall apply mutatis mutandis to the case where the social welfare corporation has filed an application for authorization to increase the maximum capacity of a nursing home for the elderly or an intensive care home for the elderly pursuant to the provision of the preceding paragraph.

(Facility Standards)

- Article 17 (1) The Minister of Health, Labour and Welfare shall specify

standards for the equipment and management of nursing homes for the elderly and intensive care homes for the elderly.

- (2) The provider of a nursing home for the elderly or an intensive care home for the elderly shall comply with the standards as set forth in the preceding paragraph.

(Request for Reports, etc.)

Article 18 (1) In cases where a prefectural governor finds it necessary in light of the welfare of the elderly, he/she may seek a report on any matters that he/she finds necessary, from a person who provides in-home elderly support services or from the operator of an elderly daycare center, short-term in-patient facility for the elderly or long-term care support center; or may cause his/her officials to question the relevant persons, to enter into their offices or facilities, and to inspect equipment, books, documents and any other article.

- (2) A prefectural governor may, with the objective of maintaining the standards set forth in paragraph (1) of the preceding Article, seek a report on any matters that he/she finds necessary, from the head of a nursing home for the elderly or an intensive care home for the elderly; or may cause his/her officials to question the relevant persons, to enter into the facilities, and to inspect equipment, books, documents and any other articles.

- (3) In cases where an official is to conduct questioning or an on-site inspection pursuant to the provisions of the preceding two paragraphs, he/she shall carry his/her identification card and present the same to a relevant person if requested to do so by such person.

- (4) The authority under the provisions of paragraphs (1) and (2) shall not be construed as having been conferred for the purpose of any criminal investigation.

(Order for Improvement, etc.)

Article 18-2 (1) In cases where a prefectural governor finds that a person who provides daily support services for dementia patients in communal living situations has committed any violation of the provisions of Article 14-4, he/she may order such a person to implement such measures as may be necessary for the improvement of those services.

- (2) In cases where a person who provides in-home elderly support services or the operator of an elderly daycare center, short-term in-patient facility for the elderly or long-term care support center has committed any violation of this Act or orders issued thereunder or of dispositions issued based on this Act or orders issued thereunder, has pursued any unjust profit in connection with its services, or has committed any unjust act in connection with the treatment of the persons specified in Article 5-2, paragraphs (2) to (6), Article 20-2-2 or

Article 20-3, the prefectural governor may restrict the provider of such services or the operator of such facility from providing such services or may order such party to suspend its services.

- (3) In cases where a prefectural governor intends to issue an order to restrict or suspend an in-home elderly support services or the business of an elderly daycare center, short-term in-patient facility for the elderly or long-term care support center pursuant to the provision of the preceding paragraph (excluding the cases where the prefectural governor intends to order a restriction or suspension of daily support services for dementia patients in communal living situations on the grounds of the violation of the order issued under paragraph (1)), he/she shall, in advance, seek opinions from the local social welfare council as set forth in Article 7, paragraph (1) of the Social Welfare Act.

Article 19 (1) In cases where a provider of a nursing home for the elderly or an intensive care home for the elderly has committed a violation of this Act or orders issued thereunder or of any disposition issued based on this Act or orders thereunder, or where such facility no longer complies with the standards set forth in Article 17, paragraph (1), the prefectural governor may issue an order against the provider to improve its equipment or management or to suspend or abolish its business, or may rescind its authorization granted under Article 15, paragraph (4).

- (2) In cases where, pursuant to the provisions of the preceding paragraph, a prefectural governor intends to order the abolition of the services of a nursing home for the elderly or an intensive care home for the elderly, or to rescind authorization on the establishment thereof, he/she shall, in advance, seek opinions from the local social welfare council as set forth in Article 7, paragraph (1) of the Social Welfare Act.

(Obligation to Accept Entrustment)

Article 20 (1) In cases where a person who provides in-home elderly support services or the operator of an elderly daycare center or short-term in-patient facility for the elderly has been entrusted pursuant to the provisions of Article 10-4, paragraph (1), such person shall not refuse to accept such entrustment except where there are justifiable grounds therefor.

- (2) In cases where the operator of a nursing home for the elderly or an intensive care home for the elderly has been entrusted with an admission pursuant to the provisions of Article 11, such operator shall not refuse to accept such entrustment except where there are justifiable grounds therefor.

(Assessment of the Quality of Treatment and Other Measures)

Article 20-2 Persons who provide in-home elderly support services and operators

of welfare facilities for the elderly shall endeavor at all times to provide treatment from the viewpoint of the person to be treated, by such means as assessing the quality of its own treatment and implementing any other measures.

(Elderly Daycare Centers)

Article 20-2-2 An elderly daycare center shall mean a facility intended to be visited by a person for whom the measure under Article 10-4, paragraph (1), item (ii) had been implemented, by a person covered by the payment of an allowance for long-term in-home care services pertaining to long-term outpatient day care, an allowance for community-based long-term care services pertaining to long-term outpatient care for a dementia patient, a long-term preventative care services allowance pertaining to long-term outpatient preventative care, or an allowance for community-based long-term preventative care pertaining to long-term preventative care for a dementia outpatient as set forth in the Long-Term Care Insurance Act, or by any other person specified by Cabinet Order (including his/her actual caregivers), and to provide the services specified by Ordinance of the Ministry of Health, Labour and Welfare as referred to in Article 5-2, paragraph (3).

(Short-Term In-Patient Facilities for the Elderly)

Article 20-3 A short-term in-patient facility for the elderly shall mean a facility intended for the short-term accommodation and care of a person for whom the measure under Article 10-4, paragraph (1), item (iii) has been implemented or of a person covered by the payment of an allowance for long-term in-home care services pertaining to a short-term in-patient admission within long-term daily care or long-term preventative care services allowance pertaining to the short-term in-patient admission within daily long-term preventative care as set forth in the Long-Term Care Insurance Act, or of any other person specified by Cabinet Order.

(Nursing Homes for the Elderly)

Article 20-4 A nursing home for the elderly shall mean a facility intended for the accommodation and care of a person for whom the measures under Article 11, paragraph (1), item (i) have been implemented, and for providing guidance, training and any other assistance so as to enable him/her to live a self-sufficient daily life and to participate in social activities.

(Intensive Care Homes for the Elderly)

Article 20-5 An intensive care home for the elderly shall be a facility intended for the accommodation and care of a person for whom the measures under

Article 11, paragraph (1), item (ii) have been implemented, a person covered by the payment of the allowance for community-based long-term preventative care in relation to in-patient admission to a community-based facility for the preventive daily long-term care of the elderly covered by public aid or an allowance for long-term care facility services in relation to services at facilities for long-term care covered by public aid as set forth in the Long-Term Care Insurance Act, or of any other person specified by Cabinet Order.

(Low-Cost Homes for the Elderly)

Article 20-6 A low-cost home for the elderly shall mean a facility intended for admitting elderly persons as in-patients and providing meals and any other services necessary for daily life activities, free of charge or for a moderate fee (excluding the facilities set forth in Articles 20-2-2 to 20-5 inclusive).

(Welfare Centers for the Elderly)

Article 20-7 A welfare center for the elderly shall mean a facility intended for providing various counseling services related to elderly persons, and providing elderly persons with general services for the improvement of their health, personal enrichment and recreation, free of charge or for a moderate fee.

(Long-Term Care Support Centers)

Article 20-7-2 (1) A long-term care support center shall mean a facility intended for providing elderly persons, their actual caregivers, community residents or any other persons with counseling and necessary advice on various issues related to the welfare of elderly people living in the community; providing liaison and coordination between elderly persons nursed primarily at their own homes or their actual caregivers, and municipalities, providers of in-home elderly support services, welfare facilities for the elderly, medical facilities, senior citizens' groups and any other persons carrying out services aimed at promoting the welfare of the elderly; and providing any other assistance as specified by Ordinance of the Ministry of Health, Labour and Welfare.

(2) The operator of a long-term care support center (in cases where the operator is a juridical person, meaning an officer thereof), its employee, or a person who was formerly in any of the aforementioned positions may not, without any justifiable ground, divulge any confidential information which may come to his/her knowledge in the course of his/her duties.

Chapter III-2 Elderly Welfare Plans

(Municipal Welfare Plans for the Elderly)

Article 20-8 (1) A municipality shall, in compliance with the basic concept set

forth in Article 2, paragraph (4) of the Local Autonomy Act (Act No. 67 of 1947), formulate a plan (hereinafter referred to as a "municipal welfare plan for the elderly") on the maintenance of systems to provide in-home elderly support services and services at welfare facilities for the elderly (hereinafter collectively referred to as "welfare services for the elderly").

(2) A municipal welfare plan for the elderly shall provide for the matters listed in the following:

(i) goals for the quantity of welfare services for the elderly to be maintained in the district of such municipality;

(ii) measures to maintain the quantity of welfare services for the elderly as set forth in the preceding item; and

(iii) any other matters necessary in relation to the maintenance of systems for providing welfare services for the elderly.

(3) In setting the goal as set forth in item (i) of the preceding paragraph (limited to goals related to in-home elderly support services, elderly daycare centers, short-term admission facilities for the elderly and intensive care homes for the elderly), the municipality shall take into account the prospective quantity of each type of services covered by long-term care benefits, etc. as set forth in Article 117, paragraph (2), item (i) of the Long-Term Care Insurance Act (limited to the services pertaining to long-term domiciliary care, long-term outpatient day care, short-term in-patient admission within long-term daily care, long-term overnight domiciliary care, long-term outpatient care for a dementia patient, multifunctional long-term care in a small group home, long-term communal care for dementia patients in communal living situations, admission to a community-based facility for preventive daily long-term care of the elderly covered by public aid and facility services for long-term care covered by public aid as referred to in said Act; and the services pertaining to domiciliary services for long-term preventative care, long-term outpatient preventative care, short-term in-patient admission within daily long-term preventative care, long-term preventative care for a dementia outpatient, multifunctional long-term preventative care in a small group home and long-term preventative care for a dementia patient in communal living situations as referred to in said Act).

(4) The Minister of Health, Labour and Welfare shall specify the standards to be taken into account by municipalities in setting the goals under paragraph (2), item (i) (limited to the goals pertaining to nursing homes for the elderly, low-cost homes for the elderly, welfare centers for the elderly and long-term care support centers).

(5) A municipal welfare plan for the elderly shall be formulated while taking into consideration the number of elderly persons in the district of such municipality suffering difficulty with activities in their daily lives due to any physical or

mental impairment, the status of their impairment, the actual circumstances of care, and any other situations.

- (6) A municipal welfare plan for the elderly shall be formulated as an integral part of the municipal insured long-term care services plan as referred to in Article 117, paragraph (1) of the Long-Term Care Insurance Act.
- (7) A municipal welfare plan for the elderly shall be coordinated with the municipal welfare plan as set forth in Article 107 of the Social Welfare Act, and any other plan providing for matters related to welfare for the elderly which is to be formulated under other Acts.
- (8) In cases where a municipality intends to formulate its municipal welfare plan for the elderly or to effect any change thereto, it shall seek an opinion from the prefecture in advance.
- (9) In cases where a municipality has formulated a municipal welfare plan for the elderly or has effected any change thereto, it shall submit such plan to the prefectural governor without delay.

(Prefectural Welfare plan for the elderly)

- Article 20-9 (1) A prefecture shall, with the objective of contributing to the achievement of the municipal welfare plan for the elderly and from a cross-regional viewpoint across the respective municipalities, formulate a plan for the maintenance of a system for providing welfare services for the elderly (hereinafter referred to as a "prefectural welfare plan for the elderly").
- (2) A prefectural welfare plan for the elderly shall provide the matters listed in the following:
 - (i) goals on the total required maximum capacity of a nursing home for the elderly and an intensive care home for the elderly located in each of the regions specified by the prefecture pursuant to the provision of Article 118, paragraph (2), item (i) of the Long-Term Care Insurance Act, and any other goals on the quantity of welfare services for the elderly;
 - (ii) matters related to measures to be implemented for the purpose of the maintenance of welfare facilities for the elderly and mutual collaboration among welfare facilities for the elderly;
 - (iii) matters related to measures to be implemented for the purpose of securing the staff engaged in welfare services for the elderly or for the improvement of their competencies; and
 - (iv) any other matters as may be necessary in connection with the maintenance of a system for providing welfare services for the elderly.
 - (3) In determining the total required maximum capacity of the intensive care homes for the elderly referred to in item (i) of the preceding paragraph, the prefecture shall take into account the required maximum capacity pertaining to the admission to a community-based facility for preventive daily long-term

care of the elderly covered by public aid as referred to in Article 118, paragraph (2), item (i) of the Long-Term Care Insurance Act and the required maximum capacity for each type of facility covered by long-term care insurance (limited to the maximum capacity pertaining to a facility covered by public aid providing long-term care to the elderly as referred to in said Act).

(4) A prefectural welfare plan for the elderly shall be formulated as an integral part of the prefectural insured long-term care services plan as set forth in Article 118, paragraph (1) of the Long-Term Care Insurance Act.

(5) A prefectural welfare plan for the elderly shall be coordinated with the prefectural plans for supporting local welfare as set forth in Article 108 of the Social Welfare Act and any other plan providing for matters related to welfare for the elderly which is to be formulated under any other Act.

(6) In cases where a prefecture has formulated its prefectural welfare plan for the elderly or has effected any changes thereto, he/she shall submit such plan to the Minister of Health, Labour and Welfare without delay.

(Advice of the Prefectural Governor, etc.)

Article 20-10 (1) A prefectural governor may provide municipalities with the necessary advice on technical matters related to the formulation of a municipal welfare plan for the elderly.

(2) The Minister of Health, Labour and Welfare may provide a prefecture with the necessary advice on methods for the formulation of a prefectural welfare plan for the elderly and any other advice on important technical matters related to the formulation of a prefectural welfare plan for the elderly.

(Assistance)

Article 20-11 The State and local governments shall endeavor to provide a person carrying out any business which would contribute to the achievement of a municipal welfare plan for the elderly or prefectural welfare plan for the elderly with any assistance required for the smooth implementation of such businesses.

Chapter IV Expenses

(Payment of Expenses)

Article 21 The following expenses shall be borne by the municipalities:

(i) expenses required for the measures to be implemented by a municipality pursuant to the provisions of Article 10-4, paragraph (1), items (i) to (iv) inclusive;

(i)-2 expenses required for the measures to be implemented by a municipality pursuant to the provisions of Article 10-4, paragraph (1), item (v);

- (ii) expenses required for the measures to be implemented by a municipality pursuant to the provisions of Article 11, paragraph (1), items (i) and (iii) and Article 11, paragraph (2); and
- (iii) expenses required for the measures to be implemented by a municipality pursuant to the provisions of Article 11, paragraph (1), item (ii).

(Adjustment Between Benefits under the Long-Term Care Insurance Act)

Article 21-2 In cases where a person for whom the measures under any of the items of Article 10-4, paragraph (1) or Article 11, paragraph (1), item (ii) apply falls under the category of person who, pursuant to the provisions of the Long-Term Care Insurance Act, is entitled to receive insurance benefits pertaining to in-home services, community-based services, services in facilities, long-term preventative care services or community-based services for long-term preventative care that are equivalent to said measures, the municipality shall not be required to bear the expenses as set forth in item (i), (i)-2 or (iii) of the preceding Article, to the extent covered by such benefits.

Article 22 Deleted

Article 23 Deleted

(Subsidies from the Prefecture)

- Article 24 (1) A prefecture may, pursuant to the provisions of Cabinet Order, subsidize up to one-fourth (or up to half, in the case of the expenses required for implementing measures for a person who is 65 years of age or older as set forth in Article 5-4, paragraph (1), and who does not have a place of residence or whose place of residence is unknown) of the expenses to be borne by such municipality pursuant to the provisions of Article 21, item (i).
- (2) In addition to what is provided for in the preceding paragraph, a prefecture may subsidize a part of the expenses required for services for the welfare of the elderly by a municipality or social welfare corporation.

(Mutatis Mutandis Application)

Article 25 The provisions of Article 58, paragraphs (2) to (4) inclusive of the Social Welfare Act shall apply mutatis mutandis to a social welfare corporation that has been the recipient of a subsidy pursuant to the provisions of the preceding Article, or to which regular property was transferred or loaned pursuant to the provisions of Article 2, paragraph (2), item (iv) of the Act on Special Measures concerning National Property (Act No. 219 of 1952) or pursuant to Article 3, paragraph (1), item (iv) and Article 3, paragraph (2) of said Act.

(State Subsidies)

Article 26 (1) The State may, pursuant to the provisions of Cabinet Order, subsidize up to half of the expenses to be borne by municipalities pursuant to the provisions of Article 21, item (i).

(2) In addition to what is provided for in the preceding paragraph, the State may subsidize a part of the expenses required for services for the welfare of the elderly, as set forth in this Act, by a prefecture or municipality.

(Disposition of Remaining Monies and Articles)

Article 27 (1) In cases where a municipality implements measures for funeral services pursuant to the provision of Article 11, paragraph (2), it may allocate money and securities left by the dead person for covering the expenses required for such measures; and, in cases where such appropriation does not meet the expenses, the municipality may sell the remaining articles and allocate the proceeds for such expenses.

(2) A municipality is entitled to receive payment of the expenses set forth in the preceding paragraph out of the proceeds of the articles left behind by the dead person, in priority over the statutory lien of any other creditor.

(Collection of Expenses)

Article 28 (1) With regard to the expenses required for the measures under Article 10-4, paragraph (1) and Article 11, the mayor of the municipality which has borne such expenses may collect all or part of the expenses required for such measures from a person for whom the measures were implemented or from a person responsible for supporting him/her (meaning a person responsible for supporting him/her as set forth in the Civil Code (Act No. 89 of 1896); the same shall apply hereinafter), depending on the financial capacity of such person.

(2) The collection of expenses as set forth in the preceding paragraph may be delegated to a municipality where the person liable for such expenses has a place of residence or where his/her property is located.

Chapter IV-2 Designated Juridical Persons

(Designated Juridical Persons)

Article 28-2 (1) The Minister of Health, Labour and Welfare may designate a general incorporated association or a general incorporated foundation aimed at the maintenance of elderly persons' physical and mental health by such means as promoting the activities of persons implementing senior health programs which, in regard to the functions set forth in the following Article, he/she finds

to conform to the following standards, as a person providing the services set forth in said Article, subject to the filing of an application by such juridical person and provided that there shall only be one such designee throughout Japan:

- (i) that the plan for the implementation of functions related to the staff, operational procedures and any other matters is appropriate, and that the juridical person is found to possess the knowledge, competencies and financial capacity which allows such juridical person to carry out such plan precisely; and
 - (ii) that, in addition to what is provided for in the preceding item, it is found that the juridical person would properly and precisely administer the relevant functions and would contribute to the promotion of senior health programs, or otherwise facilitate maintenance of an elderly persons' physical and mental health.
- (2) In cases where the Minister of Health, Labour and Welfare has made a designation pursuant to the provision of the preceding paragraph, he/she shall give a public notice of the name, address and office address of the designee (hereinafter referred to as the "designated juridical person").
- (3) In cases where the designated juridical person intends to effect any change to its name, address and office address, it shall notify the Minister of Health, Labour and Welfare to that effect in advance.
- (4) In cases where the notification under the preceding paragraph has been filed, the Minister of Health, Labour and Welfare shall give a public notice of the matters so notified.

(Functions)

Article 28-3 A designated juridical person shall perform the following functions:

- (i) implementing enlightening and promotional activities related to senior health programs;
- (ii) implementing senior health programs;
- (iii) providing assistance to persons who implement senior health programs;
- (iv) conducting research studies related to senior health programs, and training the staff members engaged in senior health programs;
- (v) performing the functions set forth in paragraph (1) of the following Article; and
- (vi) in addition to what is listed in each of the preceding items, performing the functions necessary for facilitating the promotion of senior health programs.

(Implementation of Subsidizing function by a Designated Juridical Person)

Article 28-4 (1) In cases where a designation as set forth in Article 28-2, paragraph (1) has been made, the Welfare and Medical Service Agency, as an

incorporated administrative agency, shall cause the designated juridical person to handle all or part of the subsidizing function as referred to in Article 12, paragraph (1), item (vii) of the "Act on the Welfare and Medical Services Agency, Independent Administrative Agency" (Act No. 166 of 2002), which pertains to a person who undertakes functions as may be deemed necessary for the advancement of senior health program (hereinafter referred to as the "subsidizing function").

- (2) The standards for subsidies to be granted in relation to the subsidizing function to be handled by the designated juridical person pursuant to the provision of the preceding paragraph shall be specified by Ordinance of the Ministry of Health, Labour and Welfare.
- (3) When the Minister of Health, Labour and Welfare intends to stipulate Ordinance of the Ministry of Health, Labour and Welfare as set forth in the preceding paragraph, he/she shall consult the Minister of Finance in connection therewith.

(Authorization of Functional Rules)

Article 28-5 (1) In cases where a designated juridical person wishes to perform a subsidizing function, it shall, prior to the commencement of such function, prepare rules concerning the implementation thereof (hereinafter referred to as "functional rules") and obtain authorization thereon from the Minister of Health, Labour and Welfare. The same shall apply to the case where such designated juridical person wishes to effect any change thereto.

- (2) In cases where the Minister of Health, Labour and Welfare finds that the functional rules authorized under the preceding paragraph have become inappropriate in light of the proper and precise implementation of the subsidizing function, he/she may issue an order to change such functional rules.
- (3) The matters to be contained in the functional rules shall be specified by Ordinance of the Ministry of Health, Labour and Welfare.

(Business Plan, etc.)

Article 28-6 (1) A designated juridical person shall, for each business year and pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, prepare a business plan and an income and expenditure budget, and obtain authorization therefor from the Minister of Health, Labour and Welfare. The same shall apply to the case where the designated juridical person intends to effect any change thereto.

- (2) A designated juridical person shall, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, prepare its business report, balance sheet, income and expenditure budget and inventory of assets after the end of each business year and submit it to the Minister of Health, Labour and

Welfare to obtain his/her approval therefor.

(Segregated Accounting)

Article 28-7 In cases where a designated juridical person performs a subsidizing function, it shall organize the accounting so that the accounting pertaining to the subsidizing function can be distinguished from any other type of accounting.

(Grants)

Article 28-8 The Welfare and Medical Service Agency, as an incorporated administrative agency may, within the budgetary limit, provide the designated juridical person with a part of profits derived from the investment of the fund specified in Article 23, paragraph (1) of the "Act on Welfare and Medical Service Agency, Independent Administrative Agency", as a grant to be allocated to the fund required for its subsidizing function.

(Delegation to Ordinance of Ministry of Health, Labour and Welfare)

Article 28-9 In addition to what is provided for in this Chapter, the necessary matters in relation to the finances and accounting of a designated juridical person in the case where it carries out the subsidizing function shall be as prescribed by Ordinances of the Ministry of Health, Labour and Welfare.

(Dismissal Order)

Article 28-10 In cases where any officer of a designated juridical person has committed a violation of any of the provisions of this Chapter or of any order or disposition issued thereunder, has committed any act in violation of the functional rules authorized under Article 28-5, paragraph (1), or has committed any particularly inappropriate act in relation to the functions set forth in Article 28-3, the Minister of Health, Labour and Welfare may order said designated juridical person to dismiss such officer.

(Status of Officers and Employees as Public Officers)

Article 28-11 For the purpose of the application of the Penal Code (Act No. 45 of 1907) and any other penal provisions, the officers and employees of a designated juridical person engaged in a subsidizing function shall be deemed to be officials engaged in public duties pursuant to the provisions of the laws and regulations.

(Reports and Inspections)

Article 28-12 (1) The Minister of Health, Labour and Welfare may, to the extent necessary for the assurance of the proper management of the functions set forth in Article 28-3, seek from the designated juridical person a report on

matters that he/she finds necessary; or cause his/her officials to question the relevant persons or enter into their offices and to inspect the status of the business and articles such as books and documents.

- (2) The provisions of Article 18, paragraphs (3) and (4) shall apply mutatis mutandis to the questioning or on-site inspection set forth in the preceding paragraph. In such case, the term "the preceding two paragraphs" in these provisions shall be deemed to be replaced with "the preceding paragraph"; and the term "paragraphs (1) and (2)" shall be deemed to be replaced with "paragraph (1)."

(Supervisory Orders)

Article 28-13 The Minister of Health, Labour and Welfare may, to the extent necessary for the enforcement of the provisions of this Chapter, issue orders against a designated juridical person, as may be necessary for the supervision of the functions set forth in Article 28-3.

(Rescission, etc. of Designation)

Article 28-14 (1) In cases where a designated judicial person falls under any of the following items, the Minister of Health, Labour and Welfare may rescind its designation under Article 28-2, paragraph (1), or may specify a period and order the suspension of all or part of the functions set forth in Article 28-3:

- (i) where the Minister finds the designated juridical person to be unable to implement the functions set forth in Article 28-3 properly and precisely;
- (ii) where the designated juridical person has committed any wrongful act in the course of obtaining its designation;
- (iii) where the designated juridical person has committed a violation of any of the provisions of this Chapter, or of any order or disposition issued thereunder; or
- (iv) where the designated juridical person has carried out its subsidizing function in a manner not in accordance with the functional rules authorized under Article 28-5, paragraph (1).

- (2) In cases where the Minister of Health, Labour and Welfare has rescinded the designation pursuant to the provisions of the preceding paragraph, or has issued an order to suspend all or part of the functions set forth in Article 28-3, he/she shall give a public notice to that effect.

Chapter IV-3 Fee-Based Homes for the Elderly

(Notification, etc.)

Article 29 (1) A person who wishes to establish a fee-based home for the elderly (meaning a facility to provide services for taking in elderly persons and

providing them with nursing care services such as bathing, using the restroom, meals, etc. and any other services as prescribed by Ordinance of the Ministry of Health, Labour and Welfare that are necessary accommodations to their daily lives (hereinafter referred to as "nursing care, etc.") (including the provision of such services through the entrustment of a third person and also including a promise to provide such services in the future), which excludes welfare facilities for the elderly, residences for daily support services for dementia patients in communal living situations or any other facilities specified by Ordinance of the Ministry of Health, Labour and Welfare; the same shall apply hereinafter) shall, in advance of the establishment thereof, notify the prefectural governor of the district where the facility is to be established of the matters listed in the following items:

- (i) the name of the facility and the location where such facility is to be established;
 - (ii) the name of the person who wishes to establish the facility; and the address or name and location thereof;
 - (iii) prefectural or municipal ordinances, the articles of incorporation, and any other memorandums of association;
 - (iv) the year, month and day when services are to commence;
 - (v) the name and address of the director of the facility;
 - (vi) the details of the nursing care, etc. to be provided at the facility; and
 - (vii) any other matter prescribed by Ordinance of the Ministry of Health, Labour and Welfare.
- (2) A person who has made a notification pursuant to the provisions of the preceding paragraph shall notify the prefectural governor of any change to the matters listed in any of the items in said paragraph, within one month from the day when the change was effected.
- (3) In cases where a person who has filed the notification pursuant to the provisions of paragraph (1) intends to terminate or suspend its services, such person shall, no later than one month prior to the day of the abolition or suspension, notify the prefectural governor to that effect.
- (4) The operator of a fee-based home for the elderly shall, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, prepare and preserve record books and documents on the business activities of such fee-based home for the elderly.
- (5) The operator of a fee-based home for the elderly shall, pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, disclose to a person who is or plans to become a resident of such fee-based home for the elderly the details of the nursing care, etc. provided thereby and provide him/her with information on any other matters specified by Ordinance of the Ministry of Health, Labour and Welfare.

- (6) The operator of a fee-based home for the elderly which has received, as an advance payment, a lump-sum payment for all or part of the rent periodically receivable during the elderly person's lifetime or any other payment prescribed by Ordinance of the Ministry of Health, Labour and Welfare, shall expressly disclose in writing the basis of the calculation of such advance payment; and shall, in order to be prepared for circumstances whereby such provider would bear the obligation to reimburse such advance payment, implement the necessary protective measures pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare.
- (7) A prefectural governor may, for the purpose of achieving the purposes of this Act, seek from the operator or director of a fee-based home for the elderly or from a person who has been entrusted by the operator to provide nursing care, etc. (hereinafter referred to as the "entrusted nursing care provider, etc.") a report on the matters related to the status of the management of such home or any other matter as may be deemed necessary; or cause his/her officials to question the relevant persons or enter into the office or place of operation of said fee-based home for the elderly or the entrusted nursing care provider, etc. and inspect the equipment, books, documents and any other articles.
- (8) The provisions of Article 18, paragraphs (3) and (4) shall apply mutatis mutandis to the questioning and on-site inspection as set forth in the preceding paragraph.
- (9) In cases where a prefectural governor finds a provider of a fee-based home for the elderly to have committed a violation of any of the provisions of paragraphs (4) to (6) inclusive, to have committed any unjust act in connection with the treatment of a resident of the fee-based home for the elderly (hereinafter referred to as a "resident"), or to have committed any act which would prejudice the interests of a resident in the course of the management of such home, or in any other cases where such prefectural governor finds it necessary for the protection of residents, he/she may order such provider to implement the measures necessary for the improvement thereof.
- (10) In cases where a prefectural governor has issued an order pursuant to the provision of the preceding paragraph, he/she shall give a public notice to that effect.

(Associations of Fee-Based Homes for the Elderly)

Article 30 (1) A general incorporated association which uses in its name the characters "association of fee-based homes for the elderly" may be incorporated, provided that the articles of association thereof provide that it aims to protect the residents of fee-based homes for the elderly and to contribute to the sound development of fee-based homes for the elderly, and provided further that the members thereof (hereinafter referred to as "members") shall be constituted by

providers of fee-based homes for the elderly.

- (2) The provisions of the articles of association as prescribed in the preceding paragraph may not be changed.
- (3) A general incorporated association as referred to in paragraph (1) (hereinafter referred to as an "association") shall, upon the incorporation thereof, notify the Minister of Health, Labour and Welfare to that effect within two weeks from the incorporation thereof, attaching copies of its certificate of registered matters and articles of association.
- (4) The association shall make the members list available for public inspection.

(Restrictions on Name Use)

Article 31 (1) No person other than an association may use in its name the characters "association of fee-based homes for the elderly."

- (2) A person who is not a member of an association may not use in its name the characters "member of the association of fee-based homes for the elderly."

(Functions of an Association)

Article 31-2 (1) An association shall, for the achievement of the purposes thereof, conduct the following functions:

- (i) functions to provide members with guidance and recommendations or any other functions so as to ensure compliance with the provisions of this Act and any other laws and regulations in the course of the management of the relevant fee-based home for the elderly;
 - (ii) functions to provide members with guidance and recommendations or any other functions so as to ensure the protection of residents of fee-based homes for the elderly established by members, by such means as the assurance of the adequacy of the terms and conditions of the contract, and so as to afford treatment from the viewpoint of the residents, in the course of the management of such fee-based homes for the elderly;
 - (iii) handling complaints raised by residents, etc. in relation to the equipment and management of fee-based homes for the elderly established by members;
 - (iv) training aimed at the improvement of the competencies of staff members of fee-based homes for the elderly; and
 - (v) public relations concerning fee-based homes for the elderly and any other functions as may be necessary for achieving the purposes of the association.
- (2) In cases where the association has received from any resident, etc. of a fee-based home for the elderly established by the association members any request for handling complaints about the equipment and the management of such fee-based homes for the elderly, and where the association deems it necessary, it may seek a written or oral explanation from the relevant member or request such member to submit relevant materials.

(3) In cases where the association has made a request pursuant to the provision of the preceding paragraph, the member so requested may not refuse it unless there are any justifiable grounds therefor.

(Supervision)

Article 31-3 (1) The functions of the association shall be subject to the supervision of the Minister of Health, Labour and Welfare.

(2) In cases where the Minister of Health, Labour and Welfare finds it necessary for the assurance of the proper implementation of the functions as set forth in paragraph (1) of the preceding Article, he/she may issue an order against the association, as may be necessary for the supervision of such functions.

(Cooperation with the Minister of Health, Labour and Welfare)

Article 31-4 The Minister of Health, Labour and Welfare may, for the purpose of the smooth enforcement of the provisions of this Chapter and pursuant to the provisions of Ordinance of the Ministry of Health, Labour and Welfare, have an association provide cooperation as to the notification, reporting or any other necessary matters as provided for in such provisions.

(On-Site Inspections, etc.)

Article 31-5 (1) The Minister of Health, Labour and Welfare may, to the extent necessary for the enforcement of the provisions of this Chapter, order an association to submit a report or materials related to its business or properties; or to cause the officials to question the relevant persons or to enter into the association's office, and to inspect the status of its business or properties or articles such as books and documents.

(2) The provisions of Article 18, paragraphs (3) and (4) shall apply mutatis mutandis to the questioning or on-site inspection referred to in the preceding paragraph. In this case, the term "the preceding two paragraphs" in paragraph (3) of said Article and the term "paragraphs (1) and (2)" in paragraph (4) of said Article shall be deemed to be replaced with "Article 31-5, paragraph (1)," respectively.

Chapter V Miscellaneous Provisions

(Requests for a Ruling)

Article 32 In cases where the mayor of a municipality finds it especially necessary for the welfare of a person who is 65 years of age or older, he/she may file a request for a ruling as set forth in Article 7, Article 11, Article 13, paragraph (2), Article 15, paragraph (1), Article 17, paragraph (1), Article 876-4, paragraph (1) or Article 876-9, paragraph (1) of the Civil Code.

(Town/Village Special District Authority, etc.)

Article 33 For the purpose of the application of this Act, in cases where a town/village has established a welfare office by forming a special district authority or cross-regional federation, such special district authority or cross-regional federation shall be deemed to be a town/village which has established the welfare office.

(Special Provisions for Large Cities, etc.)

Article 34 With regard to designated cities as set forth in Article 252-19, paragraph (1) of the Local Autonomy Act (hereinafter referred to as a "designated city") and core cities as set forth in Article 252-22, paragraph (1) of said Act (hereinafter collectively referred to as a "core city"), the functions provided for in this Act that are to be handled by prefectures and that are specified by Cabinet Order shall be handled by the designated city or core city (hereinafter referred to as the "designated city, etc."), pursuant to the provisions of Cabinet Order. In this case, the provisions of this Act which refer to a prefecture shall apply to a designated city, etc. as if such provisions were those referring to the designated city, etc.

(Administration of Functions by the Minister of Health, Labour and Welfare in Cases of Emergency)

Article 34-2 (1) In cases where the Minister of Health, Labour and Welfare finds it urgently necessary for the protection of the residents of a nursing home for the elderly, intensive care home for the elderly or fee-based home for the elderly, the Minister of Health, Labour and Welfare or the prefectural governor shall handle the functions which fall within the scope of the authority granted to a prefectural governor pursuant to the provisions of Article 18, paragraph (2) and Article 19, paragraph (1) (excluding the rescission of authorization pursuant to the provision of said paragraph) or functions which fall within the scope of the authority granted to a prefectural governor pursuant to the provisions of Article 29, paragraphs (7) and (9).

(2) In the case referred to in the preceding paragraph, the provisions of this Act which refer to a prefectural governor (limited to provisions pertaining to the relevant functions (excluding Article 19, paragraph (2))) shall apply to the Minister of Health, Labour and Welfare, as if such provisions were those referring to the Minister of Health, Labour and Welfare.

(3) In the case referred to in paragraph (1), if the Minister of Health, Labour and Welfare or the prefectural governor is to handle the functions, he/she shall do so in close collaboration with the other.

(The Japanese Red Cross Society)

Article 35 For the purpose of the application of this Act, the Japanese Red Cross Society shall be deemed to be a social welfare corporation.

(Commissioning of Investigations and Requests for Reports)

Article 36 When a municipality finds it necessary in relation to welfare measures, it may commission public agencies to conduct an investigation on the status of the assets or income of an elderly person who is or will be subject to such measures or a person who has an obligation to support him/her, or to seek a report thereon from a bank, trust company, the elderly person or a person who has an obligation to support him/her, the elderly person's employer or any other relevant persons.

(Order for Enforcement)

Article 37 Unless otherwise specifically provided for in this Act, the procedures for the enforcement of this Act and any other detailed regulations necessary for the execution thereof shall be prescribed by Ordinance of the Ministry of Health, Labour and Welfare.

Chapter VI Penal Provisions

Article 38 A person who has committed a violation of Article 20-7-2, paragraph (2) shall be punished by imprisonment with work for not more than one year or a fine of not more than one million yen.

Article 39 A person who has committed a violation of an order issued under Article 18-2, paragraph (1) or Article 29, paragraph (9) shall be punished by imprisonment with work for not more than six months or a fine of not more than fifty hundred thousand yen.

Article 40 In cases where any of the following items apply, the person who has committed the violation shall be punished by fine of not more than three hundred thousand yen:

- (i) a person who has failed to make a report under Article 28-12, paragraph (1) or Article 29, paragraph (7) or has made a false report, has failed to answer or given a false answer to the questioning set forth in these provisions, or has refused, obstructed or avoided the inspection set forth in these provisions;
- (ii) a person who has failed to make a notification under Article 29, paragraphs (1) to (3) inclusive or has made a false notification;
- (iii) any person who, in violation of the provisions of Article 31, paragraph (2),

has used in its name the characters "member of an association of fee-based homes for the elderly"; or

- (iv) a person who has failed to submit a report or materials under Article 31-5, paragraph (1) or has submitted a false report or materials, has refused to answer or given a false answer to the questioning set forth in said paragraph, or has refused, obstructed or avoided the inspection set forth in said paragraph.

Article 41 In cases where the representative of a juridical person, or an agent, employee or any other workers of a juridical person or an individual has committed a violation as set forth in the preceding two Articles in the course of the business of such juridical person or individual, such juridical person or individual shall be punished by fine as set forth respectively in these Articles, in addition to the punishment of the person who actually committed the act.

Article 42 A person who falls under any of the following items shall be punished by a non-criminal fine of not more than fifty hundred thousand yen:

- (i) a person who has failed to make a notification under Article 30, paragraph (3) or has made a false notification;
- (ii) any person who, in violation of the provisions of Article 30, paragraph (4), has failed to make the members' list set forth in that paragraph available for public inspection; or
- (iii) a person who has committed a violation of an order issued under Article 31-3, paragraph (2).

Article 43 Any person who, in violation of the provision of Article 31, paragraph (1), has used in its name the characters "association of fee-based home for the elderly" shall be punished by a non-criminal fine of not more than one hundred thousand yen.