
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10

Session of
1975

INTRODUCED BY COPPERSMITH, REIBMAN, DOUGHERTY, MURRAY, LEWIS,
W. E. FLEMING, NOLAN AND MESSINGER, JANUARY 21, 1975

REFERRED TO PUBLIC HEALTH AND WELFARE, JANUARY 27, 1975

AN ACT

1 Relating to health care, prescribing the powers and duties of
2 the Department of Health, establishing and providing the
3 powers and duties of the Health Care Policy Board; providing
4 for licensure, rate approval, certification of need of health
5 care providers; creating a health advocate; and the Deputy
6 Secretary for Health Care Facilities prescribing penalties;
7 and making an appropriation.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ARTICLE I

11 Preliminary Provisions

12 Section 101. Short Title.--This act shall be known and may
13 be cited as the "Comprehensive Health Care Act."

14 Section 102. Purposes.--The General Assembly finds as a fact
15 that the continuously increasing cost of health care services
16 threatens the health and welfare of citizens of the Commonwealth
17 by impairing the ability of citizens to obtain high quality,
18 economical and readily available health care. The General
19 Assembly also finds that the health and welfare of Pennsylvania
20 citizens will be enhanced by the orderly and economical

1 distribution of health care resources. To achieve such
2 distribution of resources requires governmental intervention to
3 insure the development and organization of a coordinated and
4 comprehensive system of health care. The goal of such a system
5 is to enhance the public health and welfare by insuring that
6 needed health care is available to everyone at a fair and
7 reasonable cost; that the health care delivery system is
8 responsive and adequate to the needs of all citizens; that
9 health care services and facilities are most efficiently and
10 effectively used; that consumers have meaningful input regarding
11 the delivery of care; that health care cost inflation is
12 limited; that unnecessary duplication, fragmentation, and
13 dehumanization of health care services and facilities are
14 minimized; that health care services and facilities meet high
15 quality standards; that relevant information on the cost and
16 quality of health care is disclosed to the public to the maximum
17 extent possible; and, that all citizens receive humane,
18 courteous and dignified treatment. In developing such a
19 coordinated and comprehensive health care system, it is the
20 policy of the Commonwealth to foster responsible private
21 operation and ownership of health care facilities, to encourage
22 innovation and continuous development of improved methods of
23 health care and to aid efficient and effective planning using
24 local agencies.

25 Section 103. Definitions.--As used in this act:

26 "Consumer" means a natural person who uses or potentially
27 will use the services of a provider of health care, provided,
28 however, that the consumer is not any of the following: a
29 provider of health care; an administrator, employee or
30 representative of a provider of health care, an administrator,

1 employee or representative of a third party payor as defined in
2 this act; a member of the governing board of a provider or a
3 third party payor, unless serving on such board as a designated
4 consumer representative; or a person with a substantial
5 financial interest in a provider, a third party payor or a major
6 vendor of goods and services to providers or third party payors.

7 "Department" means the Department of Health.

8 "Health care facility" means a general, tuberculosis, mental,
9 chronic disease or other type of hospital, except a Federal
10 facility or State mental hospital; an ambulatory surgical
11 center; a physical rehabilitation facility; a skilled or
12 intermediate care nursing facility; a radiology laboratory; a
13 renal dialysis center; a diagnostic center; a home health care
14 agency; or a clinical laboratory; regardless of whether such
15 health care facility is for-profit, nonprofit or governmental;
16 but not an office used exclusively for the private practice of
17 the healing arts or a program which renders treatment or care
18 for drug or alcohol abuse or dependence unless located within a
19 health care facility or a facility providing treatment solely on
20 the basis of prayer or spiritual means. A health care facility,
21 as defined, which is conducted by a religious organization for
22 the purpose of providing health care services exclusively to
23 clergymen or other persons in a religious profession who are
24 members of a religious denomination, is included for the purpose
25 of licensure only.

26 "Health care provider" means a person who operates a health
27 care facility.

28 "Local agency" means any area-wide comprehensive health
29 planning agency qualified under Federal Public Law 89-749 or,
30 where no such agency exists, any consumer controlled regional

1 health planning agency recognized as the exclusive planning
2 agency by the department.

3 "Person" means a natural person, corporation, partnership,
4 association, the Commonwealth and any local governmental unit,
5 authority and agency thereof.

6 "Policy Board" means the Health Care Policy Board created
7 under the provisions of section 301.

8 "Rates" mean all moneys payable to providers for health care
9 services, including fees, charges, and cost reimbursement.

10 "Secretary" means the Secretary of the Department of Health
11 of the Commonwealth of Pennsylvania.

12 "Third party payor" means: (i) any stock or mutual insurance
13 company, association or exchange issuing or servicing any
14 hospitalization, accident and health, or major medical insurance
15 policy; (ii) any hospital plan corporation, as defined in the
16 act of November 15, 1972 (P.L.1063, No.271); (iii) any
17 professional health service corporation, as defined in the act
18 of November 15, 1972 (P.L.1063, No.271); or (iv) any person,
19 partnership, corporation, joint venture or other association
20 which administers the provision of health care services on a
21 prepaid basis; or which administers reimbursements for the
22 provision of health care services by any health care provider or
23 health care facility subject to the provisions of this act.

24 ARTICLE II

25 Powers and Duties of the Department

26 Section 201. Powers and Duties of the Department.--The
27 department shall have the power and its duties shall be:

28 (1) To issue licenses to health care providers qualified
29 under the provisions of this act and to renew, suspend, and
30 revoke licenses.

1 (2) To issue and renew certificates of need and amended or
2 supplemental certificates of need whenever it finds that the
3 applicants qualify therefor under the provisions of this act,
4 and to revoke, limit or modify certificates of need held by
5 health care providers in accordance with this act.

6 (3) To approve rates to be paid to health care providers and
7 to approve contracts between health care providers and third
8 party payors.

9 (4) To conduct inspections, investigations, audits,
10 inquiries and hearings on matters relating to health care
11 facilities or services, and such related matters as may be
12 necessary to carry out the purposes and provisions of this act.

13 (5) To research and publish annually a report on the
14 regulation of health care facilities in Pennsylvania and in
15 conjunction with the local agency develop, publish and
16 periodically update a long-range plan for a coordinated
17 comprehensive Pennsylvania health care system.

18 (6) With respect to health care facilities to investigate,
19 and report to the Auditor General, upon every application to the
20 Auditor General made by any institution, corporation, or
21 unincorporated association, desiring to give a mortgage under
22 the provisions of the act of April 29, 1915 (P.L.201, No.112),
23 entitled "An act making mortgages, given by benevolent,
24 charitable, philanthropic, educational, and eleemosynary
25 institutions, corporations, or unincorporated associations, for
26 permanent improvements and refunding purposes, prior liens to
27 the liens of the Commonwealth for the appropriation of moneys;
28 providing a method for the giving of such mortgages, and fixing
29 the duties of the Auditor General and Board of Public Charities
30 in connection therewith."

1 (7) To furnish such staff support and expertise to the
2 Policy Board as may be needed by them to perform their
3 responsibilities.

4 (8) To minimize the administrative burden on health care
5 providers by eliminating unnecessary duplication of financial
6 and operational reports and to the extent possible coordinating
7 reviews and inspections performed by Federal, State, local and
8 private agencies.

9 (9) To furnish consultation and advice to health care
10 providers relating to financial planning and the securing of
11 capital funds for the purchase, acquisition or construction of
12 health care facilities.

13 (10) To make reasonable assessments against providers for
14 the cost of conducting the inspection for licensure.

15 (11) To hold formal hearings in accordance with the act of
16 June 4, 1945 (P.L.1388, No.442), known as the "Administrative
17 Agency Law" and informal hearings, conferences and other oral
18 proceedings and receive written comments, sworn affidavits and
19 other writings on matters for decision by the department.

20 (12) To designate the local agency for purposes of
21 certification of need and to contract with such local agencies
22 for reimbursement by the department for conducting such
23 certification.

24 (13) To implement a system of monitoring and evaluation by
25 the department of the efficiency and effectiveness of its own
26 operations and to report the results annually to the Governor,
27 the General Assembly and the Policy Board.

28 (14) To enforce the rules and regulations adopted by the
29 Policy Board.

30 (15) To exercise all other powers which are reasonably

1 related to the effective implementation of this act.

2 ARTICLE III

3 Organization and Powers and Duties of the
4 Health Care Policy Board, Council on Resources, the
5 Health Advocate, and the Deputy Secretary for
6 Health Care Facilities

7 Section 301. Health Care Policy Board.--The Policy Board
8 shall consist of eleven members, ten of whom shall be appointed
9 by the Governor, and the Secretary of Health or, upon his
10 designation, the Deputy Secretary for Health Care Facilities. Of
11 the members first appointed, two shall be appointed for a term
12 of one year, three for a term of two years, two for a term of
13 three years and three for a term of four years. Thereafter,
14 appointments shall be made for four-year terms. A vacancy
15 occurring during a term shall be filled for the unexpired term.
16 The members of the Policy Board shall be chosen for their
17 training, experience and familiarity with the delivery of health
18 care or for other ability and experience which will materially
19 add to the deliberations of the board. Of the ten members
20 appointed to the board, six shall be consumers and four shall be
21 providers or third party payors. The Governor shall have the
22 power to designate the chairman and adjust the composition of
23 the board to meet changing requirements of Federal statutes and
24 regulations. Six members shall constitute a quorum.

25 No member may participate in any action or decision
26 concerning any matter in which the member has a substantial
27 economic interest.

28 The board may have a professional staff of such size and
29 qualifications as the board shall determine.

30 Section 302. Health Care Policy Board; Powers.--The Health

1 Care Policy Board shall have the power and its duties shall be:

2 (1) To review and integrate the requirements of this act and
3 other State and Federal laws pertaining to the delivery of
4 health care and to consult with Federal, State, local and
5 private agencies involved in the health care system.

6 (2) To create such committees or advisory groups which it
7 deems necessary to advise and make recommendations, suggestions
8 or objections with respect to proposed regulations or to propose
9 and recommend regulations.

10 (3) To annually adopt a report to the Governor, the General
11 Assembly and the public on the regulation of health care
12 facilities in Pennsylvania and to review and adopt a long-range
13 plan, with periodic updates, for a coordinated comprehensive
14 Pennsylvania health care system.

15 (4) To adopt regulations for licensure and the procedures to
16 be followed in accordance with this act.

17 (5) To adopt regulations for certification of need and the
18 procedures to be followed in accordance with this act.

19 (6) To grant waivers upon the recommendation of the
20 secretary from rules and regulations when found to be in the
21 public interest and consistent with the purposes of this act.
22 Whenever the secretary recommends to the Policy Board the grant
23 of a waiver, notice of such recommendation, with a brief
24 description of the content of the waiver sought, shall be
25 published in the Pennsylvania Bulletin at least 30 days prior to
26 consideration by the board. The Policy Board shall provide to
27 any person interested as a provider, consumer or third party
28 payor, reasonable opportunity to be heard prior to making a
29 determination.

30 (7) To adopt regulations for approval of rates and contracts

1 and the procedures to be followed in accordance with this act.

2 (8) To adopt rules and regulations regarding uniform systems
3 of accounting and reporting.

4 (9) To adopt rules and regulations in regard to disclosure
5 of the contracts or other financial arrangements between health
6 care providers and hospital based medical specialists pursuant
7 to section 608.

8 (10) To establish a schedule of reasonable fees with respect
9 to applications, renewals, or filings to cover the department's
10 administrative cost of processing.

11 (11) To assume the existing powers and duties of the
12 Advisory Health Board in the Department of Health.

13 (12) To prescribe regulations for processes of monitoring
14 and evaluation of the operation of providers of health care.

15 (13) To adopt other regulations necessary or convenient to
16 carry out the purposes and provisions of this act.

17 (14) To carry out such other responsibilities as may be
18 conferred by this act.

19 Section 303. Council on Resources.--(a) The council on
20 resources shall consist of the executive committee of the
21 Statewide comprehensive health planning council. A majority of
22 the membership shall constitute a quorum. For purposes of this
23 act, the Statewide council shall elect the membership of its
24 executive committee so as to reflect the same proportion of
25 consumers which exists on the Statewide council.

26 (b) The council on resources shall review and integrate the
27 requirements of this act and State and Federal laws, rules and
28 regulations relating to certification of need. It shall review
29 and make recommendations, suggestions or objections to any rule
30 or regulation submitted to it by the Policy Board.

1 (c) The Policy Board may request the council on resources to
2 study and review all or any portion of the laws, rules and
3 regulations relating to certification of need. The council shall
4 report to the Policy Board within the time prescribed by the
5 Policy Board in making its request for the study.

6 (d) The department may assign to the council any advisory
7 responsibilities required by Federal law or regulations
8 pertaining to need certification of health care facilities.

9 Section 304. Policy Board and Council on Resources;
10 Compensation; Expenses.--Each member of the council shall be
11 paid traveling and other necessary expenses, and compensation at
12 a rate to be determined by the Executive Board. The council may
13 appoint such committees or advisory groups as it deems necessary
14 to advise and assist it in its studies, but nonmembers of the
15 council shall receive no compensation for services or expenses.
16 Members of the Policy Board, except the secretary, shall be paid
17 traveling and other necessary expenses and compensation at a
18 rate to be determined by the Executive Board.

19 Section 305. Health Advocate.--(a) There is hereby created
20 the Health Advocate to represent the interests of users and
21 potential users of health care services in the Commonwealth.

22 (b) The Health Advocate shall be appointed by the Governor
23 for a term of four years to run concurrently with the
24 gubernatorial term. The compensation shall be set by the
25 Executive Board. The Health Advocate shall possess the
26 background, independence and judgment required to represent
27 responsibly the interests of users and potential users of health
28 care services.

29 (c) The Health Advocate shall issue an annual report to the
30 public on the activities of the Health Advocate's office,

1 including the types of complaints received, the results achieved
2 pursuant to such complaints, and continuing problems.

3 (d) The Health Advocate shall have the power upon petition
4 of consumers or on his own motion:

5 (1) to initiate or participate in formal or informal
6 proceedings regarding any matter of the department;

7 (2) to initiate or participate in litigation on behalf of
8 consumers regarding health care or health related matters;

9 (3) to hold public hearings from time to time in various
10 parts of the Commonwealth to solicit consumer views;

11 (4) to examine any relevant information and records in the
12 possession of any Commonwealth department, board, commission or
13 instrumentality, provided that no confidential information is
14 disclosed or utilized in violation of law; and

15 (5) to publicize issues relating to matters of health care.

16 (e) The Health Advocate shall have authority to employ
17 adequate professional and clerical staff and define their duties
18 as may be necessary to carry out the powers and responsibilities
19 imposed by this act. The salaries of the professional and
20 clerical staff shall be set by the Executive Board. For
21 administrative purposes the office of the Health Advocate shall
22 be under the jurisdiction of the Governor's office.

23 Section 306. Deputy Secretary for Health Care Facilities.--

24 (a) There is hereby created in the Department of Health the
25 Deputy Secretary for Health Care Facilities, who shall be
26 appointed by the Governor and subject to the advice and consent
27 of the Senate.

28 (b) The Deputy Secretary for Health Care Facilities shall be
29 chief administrator for implementation of this act, having under
30 his direction the functions of certification of need, licensure

1 and rate approval. The powers, authority, duties or
2 responsibilities conferred by this act on the secretary or the
3 department may, unless otherwise indicated, be exercised with
4 equal force and effect by the Deputy Secretary for Health Care
5 Facilities.

6 ARTICLE IV

7 Administration of the Act

8 Section 401. Promulgation of Rules and Regulations.--(a) The
9 rules and regulations under this act shall be promulgated by the
10 Policy Board under the provisions of the act of July 31, 1968
11 (P.L.769, No.240), known as the "Commonwealth Documents Law" and
12 shall provide fair access and due process to all interested
13 parties in proceedings held to carry out the provisions of this
14 act.

15 (b) A brief statement of the reason for each substantive
16 provision shall accompany publication of proposed regulations
17 and subsequent changes in the Pennsylvania Bulletin, but such
18 statement shall not have the effect of law.

19 Section 402. Opportunity to Be Heard.--(a) Opportunity to be
20 heard may be granted by means of formal or informal hearings,
21 conferences or other oral proceedings or by written comments,
22 sworn affidavits or other writings on matters for decision by
23 the department as may be deemed necessary by the department to
24 make fair and informed decisions.

25 (b) Departmental hearings or other oral proceedings may be
26 conducted by such persons as the secretary may designate
27 including special agents or examiners, provided that no
28 determination or order of the department shall become effective
29 until approved and confirmed by the secretary or such
30 representatives as he may designate for such purpose other than

1 such special agent or examiner.

2 (c) Persons conducting proceedings under this act shall have
3 the power to subpoena witnesses, to administer oaths and examine
4 witnesses and receive evidence in any locality which the
5 department, having regard to the public convenience and proper
6 discharge of its functions and duties, may designate.

7 Section 403. Enforcement of Orders.--Orders of the
8 department from which the time for appeal has expired may be
9 enforced by the department in the court of common pleas of the
10 county in which the health care facility is located or in the
11 Commonwealth Court.

12 Section 404. Investigations and Inquiries.--Any
13 investigation or inquiry authorized by this act shall be limited
14 to the purposes set forth in the departmental order, rule or
15 regulation authorizing the same.

16 Section 405. Appeals.--The appeal from any action of the
17 department shall be to the Commonwealth Court.

18 ARTICLE V

19 Certificate of Need

20 Section 501. Certificate of Need Requisite for Licensure.--
21 No license or renewal thereof to provide health care services
22 shall be issued unless the applicant has a valid certificate of
23 need issued by the department authorizing the use of the
24 facility and the rendering of the services for which the license
25 is to be issued.

26 Section 502. Certificate of Need; When Required.--(a) No
27 person shall operate, lease or construct a health care facility
28 without first obtaining a certificate of need from the
29 department, authorizing such operation, lease or construction.

30 (b) No person operating an existing health care facility

1 under a certificate of need shall make expenditures toward any
2 project which will involve a total capital project cost
3 including the fair market value of any leased property in excess
4 of \$100,000 in which he will (i) lease, erect, construct, alter,
5 modernize or improve any building, or (ii) acquire any real
6 property to be used now or in the future for health care
7 purposes except by gift, devise or option, or (iii) lease or
8 acquire equipment. No person shall make a substantial change in
9 services, as defined by the department, or permanently increase
10 or decrease the bed complement beyond limits set by the
11 department unless such person has first been authorized to do so
12 by the department through the issuance of a new or amended
13 certificate of need.

14 (c) At least 30 days prior to substantial reduction of a
15 service or a permanent decrease in the bed complement, the
16 provider shall notify the local agency and the department of its
17 intended action. If the local agency does not notify the
18 provider of its objection within 30 days, the provider may make
19 the specified change and an amended certificate of need will be
20 issued automatically. If the local agency does notify the
21 provider of its objections within 30 days, the procedures of
22 section 504 shall apply.

23 Section 503. Changes Without Issuance of Certificate of Need
24 or Mandated Changes of Use.--(a) A certificate of need shall not
25 be required whenever a provider of health care services is
26 directed to alter, modernize or improve a building or acquire
27 equipment under a Federal or State law, rule, regulation or
28 order, but in such event, notice of the specific changes to be
29 made shall be given by the health care provider to the
30 department and the local agency, and the certificate of need of

1 such facility shall be amended accordingly.

2 (b) When other changes are made which do not require a new
3 or amended certificate of need, such changes must be reported to
4 the department and the local agency at a reasonable time before
5 such change is made.

6 Section 504. Certificates of Need; Application; Issuance.--

7 (a) A person desiring to obtain, renew or amend a certificate
8 of need shall apply to the local agency, supplying to it such
9 information as is required by rules and regulations. A copy of
10 the application shall be given to the department at the same
11 time as application is made to a local agency. The local
12 agency's recommendations or objections shall be forwarded to the
13 department and considered by the council on resources if filed
14 with the department within 60 days of the date the applicant
15 submitted the completed application to the local agency. Council
16 recommendations or objections, if any, shall be filed with the
17 department within 60 days of the receipt of a copy of the
18 application by the department or within 15 days of the timely
19 filing of the local agency recommendations or objections
20 whichever shall last occur. The department shall consider
21 recommendations or objections of the council or local agency
22 unless they are not timely filed with the department. If not
23 timely filed, the department shall act upon the application
24 without the recommendations or objections. Whenever objections
25 are timely filed, the department shall promptly set a date for a
26 hearing on the application. The department may on its own motion
27 or at the request of any person hold a hearing on any
28 application.

29 (b) The department shall act upon the application within 30
30 days of the recommendation of the local agency or of the

1 council, whichever shall last occur, by granting, amending or
2 refusing the requested certificate of need or by conducting a
3 hearing on the application. Notice of filing applications for
4 certificates of need or amendments or renewals thereof under
5 subsection (a) shall be published in the Pennsylvania Bulletin
6 and any person interested as a consumer, provider or third party
7 payor may file objections within 30 days of publication with the
8 department setting forth specifically the reasons therefor.

9 (c) An application for a certificate of need shall be
10 recommended, approved and issued when:

11 (1) there is a community need for the facility;

12 (2) the necessary resources are available to operate the
13 facility;

14 (3) it is a prudent use of resources considering the
15 alternative uses for such resources considering the scope of
16 types of services to be offered and considering existing
17 facilities in adjacent areas. Noncompliance with the State plan
18 adopted by the Policy Board may be considered by the department
19 as a proper basis for refusal of a certificate of need;

20 (4) the applicant is reasonably likely to fulfill licensure
21 requirements;

22 (5) the proposed health care facility is economically
23 feasible considering anticipated volume of care and the rates to
24 be charged.

25 If the health care facility or service is to be used
26 primarily for patients from an area larger than the immediate
27 locality or community in which it is located, certificate of
28 need shall not be refused on the ground that the immediate
29 locality or community has no need for the health care facility
30 or service and the application shall be considered in terms of

1 need of the larger area.

2 The local agency may take into consideration the religious
3 orientation of a health care provider and the community to be
4 served; it may also take into consideration, as may be
5 appropriate, different methodologies of treatment.

6 Section 505. Waiver from Rules.--If the local agency has
7 recommended a certificate of need which has been refused by the
8 department on the ground that the issuance of such a certificate
9 is in violation of the rules and regulations or of the State
10 plan, the applicant may upon recommendation by the secretary
11 apply to the Policy Board for a waiver from the rules and
12 regulations or plan which may be granted where there is a proven
13 exceptional need and it is consistent with the purposes of this
14 act. No appeal shall be allowed from the refusal of the Policy
15 Board to grant a waiver.

16 Section 506. Expiration of Certificate of Need.--A
17 certificate of need shall remain effective for a period of at
18 least three but no more than 6 years, as determined by the
19 board, providing the facilities and services authorized are in
20 use. Renewal of a certificate shall be determined by the
21 department only after review and recommendation by the local
22 agency. Standards for renewal shall be based upon the standards
23 for issuance of a certificate. The department may provide for
24 simplified procedures for renewal of a certificate.

25 Section 507. Revocation and Amendment of Certificate of
26 Need.--(a) The department may, upon recommendation of the local
27 agency, after due notice to the holder thereof and upon request
28 a hearing thereon, revoke or amend a certificate of need, having
29 due regard for the financial burden such changes may impose,
30 should it find that the need for the service or health care

1 facility no longer exists in the community or is not being
2 adequately fulfilled by the service or health care facility. The
3 department also, upon recommendation of the local agency may
4 withdraw a certificate of need of one health care facility as to
5 a particular service to permit the furnishing of the same
6 service by another health care facility applying to furnish the
7 service if the department shall find that the transfer of
8 service is in the interest of the best use of the facilities in
9 the community or area, is in the public interest and that the
10 change will provide more efficient utilization of health care
11 services in the community or area.

12 (b) The Policy Board shall in cooperation with the council
13 on resources and the local agencies develop and promulgate
14 standards for nonrenewal or revocation of a certificate of need.
15 In cases where nonrenewal, revocation or denial of an
16 application is contemplated, the local agency and the department
17 shall whenever possible seek in cooperation with the provider to
18 determine and implement a satisfactory alternative use for the
19 facility or proposed facility.

20 Section 508. Appeals.--The action of the department upon an
21 application for a certificate of need or for renewal, amendment
22 or revocation thereof may be appealed to the Commonwealth Court
23 by the applicant or by the local agency, having timely filed its
24 recommendations or objections. Appeals shall be taken by filing
25 notice of appeal with the Commonwealth Court within 30 days of
26 notice of the department's action.

27 ARTICLE VI

28 Licensure

29 Section 601. Licensure.--No person shall establish, maintain
30 or operate a health care facility without first having obtained

1 a license therefor issued by the department.

2 Section 602. Application for License.--Any person desiring
3 to secure a license for conducting, maintaining and operating a
4 health care facility shall submit an application therefor to the
5 department upon forms prepared and furnished by it, containing
6 such information as the department considers necessary to
7 determine that the health care provider and the health care
8 facility meet the requirements of licensure under the provisions
9 of this act and the rules and regulations relating to licensure.
10 Application for renewal of a license shall be made upon forms
11 prepared and furnished by the department and shall contain such
12 information as may be necessary to determine whether the license
13 should be renewed.

14 Section 603. Issuance of License.--(a) A health care
15 provider to which a certificate of need has been issued, making
16 application, shall be issued a license when the following
17 standards have been met:

18 (1) that there is compliance with section 501;

19 (2) that there is a compliance with the department's rules
20 and regulations pertaining to licensure. In developing rules and
21 regulations for licensure the department shall take into
22 consideration the standards of the Joint Commission on
23 Accreditation of Hospitals, the Committee on Hospital
24 Accreditation of the American Osteopathic Association and such
25 other accrediting bodies as the board may find appropriate.

26 (b) When a health care provider operates more than one
27 health care facility, each health care facility providing
28 services to a different segment of the population and operating
29 in autonomous or semi-autonomous fashion with respect to other
30 facilities operated by the same provider shall require a

1 separate license.

2 Section 604. Provisional License.--When there are numerous
3 deficiencies or a serious specific deficiency in compliance with
4 applicable statutes, ordinances or regulations, and when the
5 department finds the applicant is taking appropriate steps to
6 correct the deficiencies in accordance with a timetable agreed
7 upon by the department, the department may issue a provisional
8 license for a specified period of not more than 6 months which
9 may be renewed twice at the discretion of the department. Upon
10 overall compliance, a regular license shall be issued
11 immediately.

12 Section 605. Issuance of a Modified License.--When the
13 certificate of need for a facility is amended as to services
14 which can be offered, the department shall automatically issue a
15 modified license for those services contained in the amended
16 certificate of need.

17 Section 606. Term and Content of License.--(a) All licenses
18 issued by the department under this act:

19 (1) shall expire unless renewed 1 year from the day on which
20 issued, except for a provisional or modified license;

21 (2) shall be on a form prescribed by the department;

22 (3) shall not be transferable except upon prior written
23 approval of the department;

24 (4) shall be issued only to the health care provider for the
25 health care facility or facilities named in the application; and

26 (5) shall specify the maximum number of beds, if any, to be
27 used for the care of patients in the facility at any one time.

28 (b) The license shall at all times be posted in a
29 conspicuous place on the provider's premises. Except in case of
30 extreme emergency, no licensee shall permit the use of beds for

1 inpatient use in the licensed facility in excess of the maximum
2 number set forth in the license without first obtaining written
3 permission from the department. The department may grant
4 temporary use of beds without a certificate of need.

5 (c) The department shall require reasonable public notice of
6 a hospital or nursing home provider's application for license
7 renewal and any person interested as a consumer, provider or
8 third party payor may file objections within 30 days with the
9 department setting forth specifically the reasons therefor.

10 Section 607. Right to Enter and Inspect.--(a) For the
11 purpose of determining the suitability of the applicants, the
12 premises and the operations or the continuing conformity of the
13 licensees to this act and to applicable State and Federal
14 regulations, any authorized agent of the department shall, upon
15 proper identification made to the individual in charge of the
16 health care facility, have the right to enter, visit and inspect
17 any provider licensed or requiring a license under this act and
18 shall have full and free access to the records of the facility
19 reasonably related to its purpose, to the patients and employees
20 therein, and shall have full opportunity to interview the
21 patients and employees, giving due regard to protection of the
22 health and sanitary conditions, confidentiality of medical
23 information and the patients' rights to protection against
24 violation of their privacy involved in any such interview. No
25 inspection made hereunder shall unduly interfere with the
26 operation of the facility. The inspection result and any
27 violations cited by the department shall be made public by the
28 department within a reasonable time thereafter.

29 (b) The department may disclose to the public or require
30 providers to disclose to the public any data or information as

1 may be prescribed by regulation.

2 Section 608. Public Disclosure by Hospital Provider.--Every
3 hospital provider shall disclose to the public annually the
4 contracts or other financial arrangements between such provider
5 and every hospital based medical specialist connected with it
6 who charges a fee separate and distinct from the provider's
7 rate. The disclosure shall include gross and net proceeds
8 actually derived from the contract or arrangement by the
9 specialist. "Hospital based medical specialist" means any person
10 rendering a service where there is no freedom of choice, as
11 defined by regulation, for the patient to utilize a person
12 offering that service who is not based in or affiliated with
13 (except by customary staff privilege granted to numerous
14 qualified persons in separate practices) the hospital provider.

15 Section 609. Refusal to Issue License; Suspension;
16 Revocation; Notice.--(a) Whenever the department, upon
17 reasonable complaint of any person and/or in the course of any
18 inspection or investigation of a licensed health care facility
19 shall learn of any violation of this act or of rules or
20 regulations relating to licensure adopted pursuant to this act,
21 or to Federal laws or regulations, it shall give written notice
22 thereof to the health care provider. Such notice shall require
23 the health care provider to take specific action to bring the
24 health care facility into compliance with this act and the rules
25 and regulations relating to licensure within a reasonable
26 specified time.

27 (b) The department may refuse to renew a license or may
28 revoke a license as to all or portions of a health care facility
29 for any of the following reasons:

30 (1) substantial, numerous or continuing violations of

1 provisions of this act or of the regulations for licensure
2 issued pursuant to this act or to Federal laws or regulations;

3 (2) fraud or deceit in obtaining or attempting to obtain a
4 license;

5 (3) lending, borrowing or using the license of another, or
6 in any way knowingly aiding or abetting the improper granting of
7 a license;

8 (4) substantial or continued incompetence, negligence or
9 misconduct in operating the health care facility or in providing
10 services to patients;

11 (5) mistreating or abusing individuals cared for by the
12 health care facility; or

13 (6) the operation of a health care facility or rendering of
14 services for which a certificate of need is required under this
15 act by a health care provider who has not obtained the requisite
16 certificate or whose certificate has been revoked by the
17 department.

18 (c) If the department, after examination of the application
19 for a license or the renewal of a license or upon complaint and
20 after such investigation as it may deem advisable, determines
21 that there are apparent reasons for refusal of the license or a
22 renewal as to all or a portion of the health care facility, it
23 shall give written notice to the applicant specifying the
24 reasons for its determination. Within 30 days of such notice,
25 the applicant may demand a hearing which the department shall
26 promptly provide to determine whether the license or renewal
27 should be issued. The department may suspend or revoke a
28 license, after due notice to the licensee of the specified
29 charges, and a right to a hearing thereon and the department
30 shall do so immediately in cases of imminent danger to health or

1 safety of patients. Nothing herein contained shall impair any
2 other enforcement powers of the department.

3 (d) Persons interested as consumers, providers or third
4 party payors shall be entitled to participate in any hearings
5 held pursuant to this section.

6 Section 610. Appeal to Commonwealth Court.--If the
7 department shall refuse a license or renewal thereof or suspend
8 or revoke or modify a license, the applicant or licensee shall
9 be entitled to appeal to the Commonwealth Court from the
10 adjudication of the department within 30 days of the service of
11 such order upon the applicant or licensee by filing a notice of
12 appeal. Except in cases of imminent danger to health or safety
13 of patients, no order of the department which is appealed which
14 would terminate the right of any person to operate a health care
15 facility already licensed shall be effective unless the
16 department obtains from the Commonwealth Court a decision
17 approving the enforcement of such order or the provider fails to
18 perfect an appeal to Commonwealth Court within 30 days. Any
19 license previously issued shall be deemed to continue in effect
20 pending appeal notwithstanding the expiration of its term unless
21 otherwise determined by Commonwealth Court.

22 Section 611. Violation; Penalty.--(a) Any person operating a
23 health care facility within this Commonwealth without a license
24 required by this act, shall upon conviction thereof be sentenced
25 to pay a fine of not more than \$300, and costs of prosecution
26 and/or to undergo imprisonment for not less than 10 days nor
27 more than 30 days. Each day of operating a health care facility
28 without a license required by this act shall constitute a
29 separate offense.

30 (b) Any person, regardless of whether such person is a

1 licensee, who has committed a violation of any of the provisions
2 of this act pertaining to licensure or of rules and regulations
3 related to licensure shall upon conviction thereof in a summary
4 proceeding be sentenced to pay a fine of not more than \$300, and
5 costs of prosecution and/or to undergo imprisonment for not more
6 than 10 days: Provided, however, That the department may accept
7 a civil forfeiture in settlement of an action. Each day the
8 violation continues shall constitute a separate offense.

9 (c) These provisions shall be in addition to any other
10 enforcement powers granted under this act.

11 ARTICLE VII

12 Uniform Accounting and Reporting; Rate Approval

13 Section 701. Findings and Legislative Intent.--The General
14 Assembly finds that many health care providers, especially
15 hospitals, are experiencing serious financial difficulties due
16 to a system of rate payment that is a patchwork of Federal and
17 State Governments, profit and nonprofit insurance plans, and
18 private individuals who are self-insured or not insured at all;
19 and also due to fragmented State responsibility for rate
20 regulation. It is the intent of the General Assembly that the
21 Department of Health foster sound, efficient and dynamic health
22 care institutions and administer this act with the goal of
23 reducing and eventually eliminating the dysfunctions in health
24 care financing that exist today.

25 Section 702. Uniform Financial Reporting.--(a) The Policy
26 Board shall by rule, after consultation and public hearings,
27 prescribe a uniform system of financial reporting for health
28 care providers, specifying the information to be reported and
29 the manner of its reporting. It shall include:

30 (1) a balance sheet detailing all assets, liabilities and

1 the net worth of the institution;

2 (2) a statement of income and expenses for the fiscal year;
3 and

4 (3) such other reports as the Policy Board may prescribe.

5 (b) Every health care provider shall file with the
6 department the required financial reports on forms provided by
7 the department and at specified intervals but at least annually.

8 (c) The Policy Board shall require the filing of all reports
9 by specified dates, and may adopt regulations which assess
10 penalties for failure to file as required.

11 Section 703. Uniform System of Accounting.--(a) The Policy
12 Board shall by rule, after consultation and public hearings,
13 prescribe a uniform system of accounting for health care
14 providers. It shall specify accounting procedures to be applied
15 in connection with budgets, schedules of income and expenses,
16 assets and liabilities, allocation of costs, units of service
17 and such subjects as the department finds appropriate.

18 (b) Beginning with a provider's fiscal year starting on or
19 after January 1, 1976, every health care provider shall maintain
20 accounts in accordance with the accounting system prescribed by
21 the Policy Board. Accounting forms will be developed and
22 distributed by the department.

23 Section 704. Modifications in the Accounting and Reporting
24 System.--The Policy Board may allow and provide for
25 modifications in the accounting and reporting system in order to
26 reflect differences between the various categories, sizes or
27 types of health care providers.

28 Section 705. Rate Review; Timetable.--The rates to be paid
29 to health care providers shall become subject to review by the
30 department according to the following timetable:

1 (a) Rates Paid by Third Parties.--Beginning January 1, 1976,
2 contracts between health care providers and third party payors
3 for the rendering of health care services, including the rates
4 to be paid, shall require the approval of the department.

5 For contracts between hospital providers and any hospital
6 plan corporation, as defined in the act of November 15, 1972
7 (P.L.1063, No.271), requiring the approval of the Insurance
8 Commissioner, the secretary shall approve the rates to be
9 charged in the contract and the terms and conditions of rate
10 payment and the Insurance Commissioner shall approve all other
11 provisions not related to rates.

12 (b) Nursing Home Rates.--Beginning January 1, 1977, all
13 rates to be paid to nursing homes shall require the approval of
14 the department.

15 (c) Other Rates.--Beginning January 1, 1978, all other rates
16 to be paid to health care providers not already subject to
17 review shall require the approval of the department.

18 (d) Discretionary Implementation.--Implementation of rate
19 approval for hospital providers and skilled or intermediate care
20 nursing facilities shall conform to the schedule prescribed by
21 this section. Implementation of rate approval for all other
22 classes of health care facilities shall be at such times and
23 according to such schedules as the board determines, but in no
24 event shall implementation precede the schedule prescribed for
25 hospital providers.

26 Section 706. Standards.-- (a) Rates, in the aggregate, when
27 combined with available income from other sources, shall be
28 reasonably related to the provider's total financial requirement
29 (as defined by the board) necessary for the efficient production
30 of services.

1 Such rates for for-profit health care providers shall allow a
2 fair rate of return on the fair value of the investment.

3 Rates for nongovernmental health care providers shall
4 incorporate incentives for increasing efficiency and/or
5 improving services.

6 (b) In approving rates to be paid to health care providers,
7 the department shall take into consideration the elements of
8 allowable cost established by the Policy Board, the provider's
9 total financial requirement, geographical differentials in the
10 elements of cost considered, economic factors in the areas in
11 which the provider is located, patient mix, and costs of
12 providers of comparable size and services.

13 (c) The Policy Board shall take into consideration the
14 principles of accounting established by the American Institute
15 of Public Accountants, the chart of accounts established by the
16 American Hospital Association, and any other appropriate
17 standards utilized by health care providers.

18 (d) The department may promote and approve alternative
19 methods of rate determination or payment of an experimental or
20 innovative nature.

21 Section 707. Procedures.--(a) The Policy Board shall by
22 rule, after consultation and public hearings, establish
23 procedures for the filing, review and determination of rates in
24 a fair and expeditious manner.

25 (b) The department may require such information, including
26 the provider's proposed budget, to be submitted to the
27 department in support of a provider's rates as it deems
28 necessary. If the department by rule limits the expenditure of
29 funds from capital accounts, the proposed budget may be used to
30 verify such limitation upon audit.

1 (c) The department shall review rates within a reasonable
2 period of time, as defined by the Policy Board, after the
3 deadline for submission. Rates not acted upon by the department
4 within the prescribed time limit shall be deemed approved
5 automatically.

6 Section 708. Opportunity to Be Heard.--Prior to approval of
7 any rate by the department the provider and any person
8 interested as a consumer or third party payor shall be entitled
9 to an opportunity to be heard on the reasonableness of such
10 rate.

11 Section 709. Rate Exceptions; Procedures.--(a) Any provider
12 or any person interested as a consumer or third party payor may
13 request an exception from the rate approved by the department
14 for good cause shown by petition to the board.

15 (b) The board may provide for the taking of evidence upon
16 the petition, either by appointment of an impartial hearing
17 examiner or by designation of a board member or panel of
18 members, by the chairman. Such examiner, member or members shall
19 be authorized to administer oaths, compel the attendance of
20 witnesses and the production of records or other information,
21 and examine witnesses. Other parties interested as providers,
22 consumers or third party payors may also present evidence and
23 participate in the hearing. After the hearing, findings of fact,
24 conclusions and recommendations shall be presented to the board.

25 (c) Within 60 days of the petition for an exception, unless
26 extended by the board with the consent of the provider for no
27 more than 60 additional days, the board shall either deny the
28 petition or grant the petition in whole or in part and approve a
29 new rate.

30 (d) Judicial appeals may be taken pursuant to section 405 of

1 this act.

2 Section 710. Public Inspection.--A health care provider's
3 schedule of rates in force and a schedule of rates, if any,
4 submitted to the department for its approval, with the required
5 supporting information, shall be available for inspection by the
6 public during business hours in the offices of the department,
7 the provider and any contracting party.

8 Section 711. Compliance.--No health care provider shall
9 charge for services at rates other than those approved by the
10 department.

11 When a provider charges a rate higher than that approved by
12 the department, the department may order compensatory
13 adjustments in rates for subsequent years.

14 Section 712. Penalty.--Any health care provider or officer,
15 director or agent thereof who knowingly fails to comply with the
16 requirements of this article shall, upon conviction thereof in a
17 summary proceeding, be sentenced to pay a fine of not more than
18 \$300 and costs of prosecution, and/or to undergo imprisonment
19 for not less than 10 days and not more than 30 days: Provided,
20 however, That the department may accept a civil forfeiture in
21 settlement of an action. Each day of noncompliance shall
22 constitute a separate offense.

23 ARTICLE VIII

24 Proceedings Against Unlicensed Health Care

25 Providers and Violators

26 Section 801. Actions Against Unlicensed Health Care
27 Providers.--Whenever a license is required by this act for the
28 establishment, operating or conduct of a health care facility,
29 the department may maintain an action in the name of the
30 Commonwealth for an injunction or other process restraining or

1 prohibiting any person from establishing, conducting or
2 operating any unlicensed health care facility.

3 Section 802. Actions Against Violations of Law and Rules and
4 Regulations.--Whenever any person, regardless of whether such
5 person is a licensee, has violated any of the provisions of this
6 act pertaining to licensure or the regulations issued pursuant
7 thereto, the department may maintain an action in the name of
8 the Commonwealth for an injunction or other process restraining
9 or prohibiting such person from engaging in such activity.

10 Section 803. Injunction or Restraining Order When Appeal is
11 Pending.--Whenever the department shall have refused to grant or
12 renew a license, or shall have suspended or revoked a license
13 required by this act to operate or conduct a health care
14 facility, or shall have ordered the person to refrain from
15 conduct violating the rules and regulations of the department
16 and the person deeming himself aggrieved by such refusal or
17 suspension or revocation or order shall have appealed from the
18 action of the department, the Commonwealth Court may, during
19 pendency of such appeal, issue a restraining order or injunction
20 upon a showing that the continued operation of the health care
21 facility adversely affects the well-being and safety of the
22 patients of the health care facility, or the court may authorize
23 continued operation of the facility or make such other order
24 pending final disposition of the case as justice and equity
25 require.

26 Section 804. Injunction or Restraining Order When No Appeal
27 is Pending.--Should a person, who is refused a license or the
28 renewal of a license to operate or conduct a health care
29 facility, or whose license to operate or conduct a health care
30 facility is suspended or revoked, fail to appeal or should such

1 appeal be decided finally favorably to the department, then the
2 court shall issue a permanent injunction upon proof that the
3 person is operating or conducting a health care facility without
4 a license as required by this act.

5 Section 805. Bonds and Costs.--No bond shall be required of
6 the department in any legal action.

7 Section 806. Remedies Supplementary.--The provisions of this
8 article are supplementary to any other legal rights created in
9 this act or any other act available for the enforcement of
10 provisions of this act and rules and regulations promulgated
11 thereunder.

12 ARTICLE IX

13 General Provisions

14 Section 901. Licenses and Certificates for Existing
15 Facilities.--All health care providers licensed or approved on
16 the effective date of this act to conduct, maintain or operate a
17 health care facility or who are operating such facility which
18 has been licensed or approved, shall be issued a license
19 immediately upon application and all such providers shall be
20 issued forthwith a certificate of need by the department for all
21 buildings, real property and equipment owned, leased or being
22 operated or under contract for construction, purchase or lease
23 and for all services being rendered by the licensed or approved
24 providers on the effective date of this act. To facilitate
25 administration of this act, the department may initially grant
26 some licenses and certificates of need for periods less than the
27 prescribed term and may permit the running of licenses or
28 approvals currently granted to providers, as may be required to
29 stagger the dates for renewal.

30 Section 902. Administration of the Act.--(a) No health care

1 provider shall be required by any provisions of this act or
2 rules and regulations promulgated thereunder to provide
3 facilities or render services contrary to the stated religious
4 or moral beliefs of the provider, nor shall any applicant be
5 denied a license or a certificate of need or the right to apply
6 for or receive public funds on the grounds he will not provide
7 the facilities or render the services for such reasons.

8 (b) Except as otherwise provided by law, no provider shall
9 discriminate in the operation of a health care facility on the
10 basis of race, creed, sex or national origin.

11 (c) Consumers shall have freedom of choice in the selection
12 of health care facilities and nothing in this act or any rules
13 and regulations promulgated pursuant thereto shall be
14 interpreted to require any consumer to use any particular health
15 care facility or to be denied the use of any particular health
16 care facility; but such freedom shall not carry with it the
17 right to be attended therein by the consumer's personal
18 physician if the physician is not authorized to practice
19 therein.

20 (d) In carrying out the provisions of this act and other
21 statutes of this Commonwealth relating to health care
22 facilities, the department and the departments and other
23 agencies and officials of State and local governments shall make
24 every reasonable effort to prevent duplication of inspections
25 and examinations.

26 (e) The department shall not administer this act in a way
27 that will stifle innovation or experimentation in health care
28 and health care facilities or that will discourage contributions
29 of private funds and services to health care facilities.

30 Section 903. Appropriation.--The sum of \$1,500,000, or as

1 much thereof as may be necessary, is hereby appropriated to the
2 department for the purpose of the administration and enforcement
3 of this act.

4 Section 904. Transfer of Powers.--The Advisory Health Board
5 is abolished and its powers, duties and functions are hereby
6 transferred to the Health Care Policy Board.

7 Section 905. Repeals.--(a) The provisions of Articles IX and
8 X, act of June 13, 1967 (P.L.31, No.21), known as the "Public
9 Welfare Code" are repealed in so far as they relate to health
10 care facilities.

11 (b) All acts and parts of acts are hereby repealed in so far
12 as inconsistent with the provisions of this act.

13 Section 906. Effective Date.--This act shall take effect
14 immediately.