

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1847 Session of
1989

INTRODUCED BY JAROLIN, SEPTEMBER 18, 1989

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 18, 1989

AN ACT

1 Authorizing the transfer of Nanticoke State General Hospital to
2 Community General Hospital.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Conveyance authorized.

6 The Department of General Services and the Board of Trustees
7 of the Nanticoke State General Hospital (hereinafter NSGH), with
8 the approval of the Governor and the Department of Public
9 Welfare, are hereby authorized on behalf of the Commonwealth of
10 Pennsylvania, to grant, convey and transfer effective January 1,
11 1990, to Community General Hospital at Nanticoke (hereinafter
12 CGH), a Pennsylvania nonprofit, nonstock corporation to be
13 organized by Wilkes-Barre General Health Corporation
14 (hereinafter WBGHC), and of which WBGHC shall be the sole
15 member, all right, title and interest of the Commonwealth of
16 Pennsylvania in and to any and all fixtures and tangible and
17 intangible personal property of any nature owned by the
18 Commonwealth, or in which the Commonwealth has an interest,

1 presently or at the date of the conveyance, utilized in the
2 operation of NSGH, including, but not limited to, furnishings,
3 equipment, vehicles, inventories, supplies, business records and
4 patient records, attached to, or located in, on or at, or used
5 in connection with the property, buildings, improvements and
6 equipment at the site known as the Nanticoke State General
7 Hospital, located in Nanticoke, Pennsylvania, Luzerne County
8 (hereinafter the premises), whether or not such property is or
9 shall be affixed to any such property, buildings or
10 improvements.

11 Section 2. Grant or lease.

12 The Department of General Services and the Board of Trustees
13 of NSGH, with the approval of the Governor and the Department of
14 Public Welfare, are hereby authorized on behalf of the
15 Commonwealth of Pennsylvania, one of the following options:

16 (1) (i) To grant and convey to CGH the tracts of land
17 together with any and all buildings and improvements now
18 or hereafter located on or at, or used in connection with
19 the premises, including, without limitation to, the
20 fixtures, attachments, appliances, equipment, machinery
21 and all other articles owned by the Commonwealth attached
22 to such buildings and improvements situate in the Borough
23 of Nanticoke, Luzerne County, known as NSGH.

24 (ii) The deed of conveyance shall convey any and all
25 tenements, hereditaments and appurtenances belonging to
26 the property, buildings and improvements described in
27 this act or in any way pertaining thereto, and all
28 streets, alleys, passages, ways, water courses, water
29 rights, and all leasehold estates, easements and
30 covenants now existing or hereafter created for the

benefit of the owner or tenant of the property described in this act, and all rights to enforce the maintenance of such property, and all other rights, liberties and privileges of whatsoever kind or character, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law or in equity, of the Commonwealth in and to the property, buildings and improvements described in this act.

(iii) CGH shall perform a legal survey of all the properties authorized to be conveyed by this subsection. The legal description resulting from the legal survey shall be placed in the deed or deeds of conveyance authorized by this act.

(2) Lease to CGH for \$1 the land and all improvements thereon comprising the premises. The term of such lease shall commence on January 1, 1990, and shall terminate on the date that CGH informs the Department of General Services that the leased premises shall no longer be in use to provide health care services as a result of the completion of newly constructed building facilities to be located in Nanticoke, Pennsylvania.

Section 3. Operating permit and certificate of need.

Notwithstanding any provisions of law, including the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, to the contrary, the Department of Health with the approval of the Governor and the Department of Public Welfare, shall transfer to CGH, effective January 1, 1990, a license to operate 94 acute care hospital beds both while CGH is providing health care services on the premises and while such services are being provided as part of the newly constructed

1 building facilities. Further, the Department of Health, with the
2 approval of the Governor and the Department of Public Welfare,
3 shall issue a Certificate of Need to CGH to construct and
4 operate a \$15,000,000 building project in Nanticoke,
5 Pennsylvania, which shall be the site on which CGH will
6 construct the building facilities and provide health care
7 services. Among other things, the building project shall enable
8 CGH to provide those health care services being provided at NSGH
9 as of January 1, 1990, including inpatient medical and surgical
10 services, inpatient intensive care services, inpatient acute
11 psychiatric services and all related ancillary services for both
12 inpatients and outpatients. Except as provided in this act, all
13 other provisions of law shall apply to CGH.

14 Section 4. Incinerator permit.

15 The Department of Environmental Resources, with the approval
16 of the Governor and the Department of Public Welfare, shall
17 issue a permit to construct and operate a new incineration
18 system for infectious and medical waste generated only by the
19 building facilities authorized to be constructed by this act.

20 Section 5. Exemption from liens, taxes, etc.

21 All property granted, conveyed or transferred pursuant to
22 this act to CGH shall be free of any and all liens and
23 encumbrances on the date of such transfer, subject to the
24 existing reverter as set forth in the deed describing the
25 property to be conveyed. The transfer of property authorized
26 under this act shall be exempt from taxes, imposts or other fees
27 and costs to the extent that such taxes, imposts, fees and costs
28 are imposed by the Commonwealth or any local taxing authority.
29 The Commonwealth shall undertake payment of rental charges on
30 behalf of NSGH to The General State Authority to release all

1 property authorized to be conveyed in this section from all
2 liens and encumbrances in favor of The General State Authority
3 in order to complete the transfer to private ownership.

4 Section 6. Conveyance subject to easements, etc.

5 The conveyances described in this act shall be made under and
6 subject to all easements, servitudes and rights of others,
7 including, but not confined to, streets, roadways and rights of
8 any telephone, telegraph, water, electric, sewer, gas or
9 pipeline companies, as well as under and subject to interest,
10 estates or tenancies vested in third persons, whether or not
11 appearing of record, for any portion of the land or improvements
12 erected thereon.

13 Section 7. Execution of deed.

14 The deeds of conveyance of the property described in this act
15 shall be approved as provided by law and shall be executed by
16 the Secretary of General Services in the name of the
17 Commonwealth and shall be executed by a duly authorized agent of
18 the Board of Trustees of NSGH, who is hereby authorized and
19 directed to join in such deeds for the purpose of transferring
20 such remaining interest in the properties described in this act
21 as shall be vested as of the time of execution of such deeds in
22 the remaining members of the Board of Trustees of NSGH.

23 Section 8. Transfer of powers, duties, functions, etc.

24 All agreements to the extent assignable and leases of every
25 nature of the Commonwealth which are used, employed or dispensed
26 in connection with the duties, powers or functions of this
27 Commonwealth relating to NSGH are hereby authorized to be
28 transferred to CGH as of January 1, 1990. All moneys received by
29 CGH for services rendered by the Commonwealth at NSGH shall be
30 remitted to the Commonwealth. All accounts payable and all

1 liabilities, whether known or unknown, absolute, contingent or
2 otherwise and whether due or to become due, arising or accruing
3 out of or in connection with or in any way related to the
4 operation of NSGH prior to January 1, 1990, or the ownership of
5 the premises shall be paid by the Commonwealth. Nothing
6 contained herein shall impose upon CGH, WBGHC or its affiliates
7 any obligation, liability, claim, demand or cause of action
8 against the Commonwealth arising or accruing out of or in
9 connection with or in any way related to the operation of NSGH
10 prior to January 1, 1990, or the ownership of the premises,
11 including, but not limited to, those arising under any law or
12 statute regulating the environmental condition of the premises.
13 The Commonwealth shall indemnify and hold harmless CGH, WBGHC
14 and their affiliates against all claims, obligations and
15 liabilities whatsoever arising or accruing out of or in
16 connection with or in any way related to the operation of NSGH
17 at any time prior to January 1, 1990, or the ownership of the
18 premises by the Commonwealth except those arising under any
19 contracts existing as of the date hereof between the
20 Commonwealth and CGH, WBGHC or their affiliates.

21 Section 9. Gifts, etc.

22 Any gift, grant or donation of any kind whatsoever or any
23 bequest, devise, gift or grant contained in any will or any
24 other instrument, in trust or otherwise made to or for the
25 benefit of NSGH, before or after the transfer authorized by this
26 act, shall inure to the benefit of CGH and may be used by CGH
27 for any purposes that shall be consistent with any conditions,
28 restrictions or limitations imposed by the maker of such gift,
29 grant, donation, bequest or devise.

30 Section 10. Health care.

1 As consideration for the grants, conveyances, transfers,
2 appropriations and other undertakings by the Commonwealth
3 authorized herein, CGH shall provide health care services for at
4 least a five-year period from January 1, 1990, and shall
5 contribute no less than \$2,000,000 to the construction and
6 operation of the new building facilities.

7 Section 11. Divestiture agreement.

8 The Department of General Services, the Department of Public
9 Welfare, the Department of Health, the Office of Attorney
10 General and such other departments or agencies as may be
11 required, with the approval of the Governor, are hereby
12 authorized on behalf of the Commonwealth of Pennsylvania to
13 execute, deliver and perform a divestiture agreement
14 incorporating the provisions of this act and containing such
15 other terms and conditions as shall be mutually agreeable to the
16 Commonwealth and CGH. In the event that such divestiture
17 agreement is not executed on or before December 31, 1989, the
18 provisions in this act shall be null and void.

19 Section 12. Purposes.

20 The purposes of this act are to remove the State government
21 from the direct provision of health care services in Nanticoke,
22 Pennsylvania; to enhance the delivery of health care services in
23 Nanticoke, Pennsylvania; to enhance the quality of medical care
24 for such citizens; and to serve the interests of the
25 Commonwealth in eliminating unnecessary costs in the operation
26 of State government.

27 Section 13. Governance of CGH.

28 CGH shall be governed by its board of directors, who shall be
29 appointed by its sole member WBGHC, in accordance with its
30 bylaws.

1 Section 14. Appropriation.

2 The sum of \$14,500,000 is hereby appropriated to Community
3 General Hospital to defray funding requirements necessary for
4 the building project described in section 4 and to defray a
5 portion of CGH's operating costs for the period during which
6 health care services are being provided by CGH on the premises.
7 This sum shall be paid by the Department of Public Welfare over
8 a three-year period:

9 (1) \$5,000,000 in fiscal year 1989-1990;

10 (2) \$5,000,000 in fiscal year 1990-1991; and

11 (3) \$4,500,000 in fiscal year 1991-1992.

12 If, however, the premises are conveyed to CGH pursuant to
13 section 2(1) above, the amount of such appropriation shall be
14 increased by \$500,000 payable in fiscal year 1991-1992.

15 Section 15. Repeals.

16 (a) Specific repeal.--The act of July 19, 1979 (P.L.130,
17 No.48), known as the Health Care Facilities Act, is repealed
18 insofar as it is inconsistent with this act.

19 (b) General repeal.--All acts and parts of acts are repealed
20 insofar as they are inconsistent with this act.

21 Section 16. Effective date.

22 This act shall take effect immediately.