

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1982 Session of  
1991

INTRODUCED BY PISTELLA, RICHARDSON, FLEAGLE, TRICH, BELFANTI,  
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AUGUST 4, 1991

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
NOVEMBER 16, 1992

## AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An  
2 act relating to health care; prescribing the powers and  
3 duties of the Department of Health; establishing and  
4 providing the powers and duties of the State Health  
5 Coordinating Council, health systems agencies and Health Care  
6 Policy Board in the Department of Health, and State Health  
7 Facility Hearing Board in the Department of Justice;  
8 providing for certification of need of health care providers  
9 and prescribing penalties," abolishing the State Health  
10 Coordinating Council and the Health Care Policy Board;  
11 further providing for health planning; establishing the  
12 Health Policy Board; and making repeals.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Sections 103, 201 and 202 of the act of July 19,  
16 1979 (P.L.130, No.48), known as the Health Care Facilities Act,  
17 amended or added July 12, 1980 (P.L.655, No.136), are amended to  
18 read:

19 Section 103. Definitions.

20 The following words and phrases when used in this act shall  
21 have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 "Act." The comprehensive Health Care Facilities Act.

3 ["Affected person." A person whose proposal is being  
4 reviewed for purposes of certificate of need, the health systems  
5 agency for the health service area in which the proposed new  
6 institutional health service is to be offered or developed,  
7 health systems agencies serving contiguous health service areas,  
8 health care facilities and health maintenance organizations  
9 located in the health service area which provide institutional  
10 health services, and those members of the public who are to be  
11 served by the proposed new institutional health services and  
12 those agencies, if any, which establish rates for health care  
13 facilities and health maintenance organizations located in the  
14 health systems area in which the proposed new institutional  
15 health service is to be offered or developed.

16 "Annual implementation plan." The latest health systems  
17 agency's annual statement of objectives to achieve the goals of  
18 the health systems plan, including the priorities established  
19 among the objectives.]

20 "Board." The Health Policy Board established under section  
21 401.1 of this act.

22 "Certificate of need." A [certificate] notice of approval  
23 issued by the department under the provisions of this act,  
24 including those NOTICES OF APPROVAL issued as an amendment to an <—  
25 existing certificate of need.

26 "Clinically related health service." A CERTAIN diagnostic, <—  
27 treatment or rehabilitative service, which may include <—  
28 freestanding facilities or offices providing diagnostic,  
29 treatment or rehabilitative service. SERVICES AS DETERMINED IN <—  
30 SECTION 701.

1 "Community-based health services planning committee." A  
2 committee established in accordance with procedures approved by  
3 the Department of Health which includes representatives of local  
4 or regional groups of consumers, business, labor, health care  
5 providers, payors or other affected interests.

6 "Conflict of interest." For the purpose of section 501, the  
7 interest of any person, whether financial, by association with,  
8 or as a contributor of money or time to, any nonprofit  
9 corporation or other corporation, partnership, association, or  
10 other organization, and whenever a person is a director, officer  
11 or employee of such organization, but shall not exist whenever  
12 the organization in which such person is interested is being  
13 considered as part of a class or group for whom regulations are  
14 being considered, if the material facts as to the relationship  
15 or interest are disclosed or are known to the board.

16 "Consumer." A natural person [who is not a "provider of  
17 health care" as defined in Title XV of the Federal Public Health  
18 Service Act] who is not involved in the provision of health  
19 services or health insurance. For the purpose of [section 301]  
20 this act, any person who holds a fiduciary position in any  
21 health care facility [or], health maintenance organization or  
22 third party payor shall not be considered a consumer.

23 "Department." The Department of Health.

24 "Develop." When used in connection with health services or  
25 facilities, means to undertake those activities which on their  
26 completion will result in the offer of a new health service or  
27 the incurring of a financial obligation in relation to the  
28 offering of such a service.

29 ["Health care facility." A general or special hospital  
30 including tuberculosis and psychiatric hospitals, rehabilitation

1 facilities skilled nursing facilities, kidney disease treatment  
2 centers including free-standing hemodialysis units, intermediate  
3 care facilities and ambulatory surgical facilities, both profit  
4 and nonprofit and including those operated by an agency of State  
5 or local government, but shall not include an office used  
6 exclusively for their private or group practice by physicians or  
7 dentists, nor a program which renders treatment or care for drug  
8 or alcohol abuse or dependence, unless located within, by or  
9 through a health care facility, a facility providing treatment  
10 solely on the basis of prayer or spiritual means in accordance  
11 with the tenets of any church or religious denomination, nor a  
12 facility conducted by a religious organization for the purpose  
13 of providing health care services exclusively to clergymen or  
14 other persons in a religious profession who are members of the  
15 religious denominations conducting the facility.

16 This definition shall exclude all health care facilities as  
17 hereinabove defined that do not accept, directly or indirectly,  
18 any Federal or State Governmental funds for capitalization,  
19 depreciation, interest, research or reimbursement, unless the  
20 Secretary of Health, Education and Welfare, pursuant to Federal  
21 Public Law 93-641, section 1523(a)(4)(B), concludes that this  
22 exclusionary provision is unsatisfactory to the Departments of  
23 Health, Education and Welfare.

24 "Health maintenance organization." An organization defined  
25 as a health maintenance organization by section 1531(8) of the  
26 Federal Public Health Service Act or an organization regulated  
27 by the act of December 29, 1972 (P.L.1701, No.364), known as the  
28 "Voluntary Nonprofit Health Service Act of 1972."]

29 "Health care facility." For purposes of Chapter 7 of this  
30 act, any health care facility providing clinically related

1 health services, including, but not limited to, a general or  
2 special hospital including psychiatric hospitals, rehabilitation  
3 hospitals, ambulatory surgical facilities, long-term care  
4 nursing facilities, cancer treatment centers using radiation  
5 therapy on an ambulatory basis, and inpatient drug and alcohol  
6 treatment facilities, both profit and nonprofit and including  
7 those operated by an agency or State or local government. The  
8 term shall not include an office used primarily for the private  
9 or group practice by health care practitioners where no  
10 reviewable clinically related health service is offered, a  
11 facility providing treatment solely on the basis of prayer or  
12 spiritual means in accordance with the tenets of any church or  
13 religious denomination, or a facility conducted by a religious  
14 organization for the purpose of providing health care services  
15 exclusively to clergy or other persons in a religious profession  
16 who are members of the religious denominations conducting the  
17 facility.

18 "Health care practitioner." An individual who is authorized  
19 to practice some component of the healing arts by a license,  
20 permit, certificate or registration issued by a Commonwealth  
21 licensing agency or board.

22 "Health care provider" or "provider." An individual, a trust  
23 or estate, a partnership, a corporation (including associations,  
24 joint stock companies and insurance companies), the  
25 Commonwealth, or a political subdivision or instrumentality  
26 (including a municipal corporation or authority) thereof, that  
27 operates a health care facility.

28 "Health [service] planning area." [The area served by a  
29 health systems agency as designated in accordance with Title XV  
30 of the Federal Public Health Service Act.] A geographic area

1 within the Commonwealth designated by the Department of Health  
2 for purposes of health planning.

3 ["Health services." Clinically related (i.e., diagnostic,  
4 treatment or rehabilitative) services, including alcohol, drug  
5 abuse and mental health services.

6 "Health systems agency" or "HSA." An entity which has been  
7 conditionally or fully designated pursuant to Title XV of the  
8 Federal Public Health Service Act.]

9 "Hearing board." The State Health Facility Hearing Board  
10 created in the [Department of Justice] Office of General Counsel  
11 under the provisions of this act.

12 ["Home health care." The provision of nursing and other  
13 therapeutic services to disabled, injured or sick persons in  
14 their place of residence and other health related services  
15 provided to protect and maintain persons in their own home.

16 "Major medical equipment." Medical equipment which is used  
17 for the provision of medical and other health services and which  
18 costs in excess of \$150,000, except major medical equipment  
19 acquired by or on behalf of a clinical laboratory to provide  
20 clinical laboratory services if the clinical laboratory is  
21 independent of a physician's office and a hospital and it has  
22 been determined under the Medicare program to meet the  
23 applicable requirements of section 1861(s) of the Federal Social  
24 Security Act. In determining whether medical equipment has a  
25 value in excess of \$150,000, the value of studies, surveys,  
26 designs, plans, working drawings, specifications, and other  
27 activities essential to the acquisition of such equipment shall  
28 be included.]

29 "Interested person" or "person expressing an interest." For  
30 the purposes of Chapter 7 of this act, a member of the public

1 who is to be served by the proposed new health service IN THE <—  
2 AREA TO BE SERVED BY THE APPLICANT, a health care facility or  
3 health maintenance organization or any health care provider  
4 providing similar services IN THE AREA TO BE SERVED BY THE <—  
5 APPLICANT, or who has received a certificate of need to provide  
6 services IN THE AREA TO BE SERVED BY THE APPLICANT or who has <—  
7 formally filed a letter of intent with the Department of Health <—  
8 WITH THE DEPARTMENT A LETTER OF INTENT TO PROVIDE SIMILAR <—  
9 SERVICES in the area in which the proposed service is to be  
10 offered or developed, and any third party payor of health  
11 services provided in that area who provides written notice to  
12 the department that the person is interested in a specific  
13 certificate of need application before the department.

14 "Offer." Make provision for providing in a regular manner  
15 and on an organized basis [specified] clinically related health  
16 services.

17 "Patient." A natural person receiving health care in or from  
18 a health care provider.

19 "Person." A natural person, corporation (including  
20 associations, joint stock companies and insurance companies),  
21 partnership, trust, estate, association, the Commonwealth, and  
22 any local governmental unit, authority and agency thereof. [The  
23 term shall include all entities owning or operating a health  
24 care facility or health maintenance organization.

25 "Persons directly affected." A person whose proposal for  
26 certificate of need is being reviewed, members of the public who  
27 are to be served by the proposed new institutional health  
28 services, health care facilities and health maintenance  
29 organizations located in the health service area in which the  
30 service is proposed to be offered or developed which provide

1 services similar to the proposed services under review, and  
2 health care facilities and health maintenance organizations  
3 which prior to receipt by the agency of the proposal being  
4 reviewed have formally indicated an intention to provide such  
5 similar service in the future and those agencies, if any, which  
6 establish rates for health care facilities and health  
7 maintenance organizations located in the health systems area in  
8 which the proposed new institutional health service is to be  
9 offered or developed.]

10 "Policy board." The [Health Care Policy Board] Health Policy  
11 Board created in the Department of Health under the provisions  
12 of this act.

13 ["Predevelopment costs." Expenditures for preparation of  
14 architectural designs, working drawings, plans and  
15 specifications.]

16 "Public [hearing] meeting." A meeting open to the public  
17 where any person has an opportunity to [present testimony held  
18 without imposition of a fee] comment on a certificate of need  
19 application or proposed State health services plan amendment.

20 ["Rehabilitation facility." An inpatient facility which is  
21 operated for the primary purpose of assisting in the  
22 rehabilitation of disabled persons through an integrated program  
23 of medical and other services which are provided under competent  
24 professional supervision.]

25 "Secretary." The Secretary of the Department of Health of  
26 the Commonwealth of Pennsylvania.

27 ["Statewide Health Coordinating Council" or "SHCC", or  
28 "council." The council established in compliance with Title XV  
29 of the Federal Public Health Service Act.]

30 "State health services plan." A document developed by the



1 Department of Health, after consultation with the policy board  
2 AND APPROVED BY THE GOVERNOR, that is consistent with section <—  
3 401.3, and that describes in qualitative and quantitative terms <—  
4 the department's assessment of how the Commonwealth's health  
5 service delivery system is to be organized Statewide and  
6 regionally to meet THAT MEETS the current and projected needs of <—  
7 its citizens for affordable health care THE COMMONWEALTH'S <—  
8 CITIZENS. The State health services plan shall contain, in part,  
9 the STANDARDS AND criteria against which certificate of need <—  
10 applications are reviewed and upon which decisions are based.

11 "Third party payor." A person who makes payments on behalf  
12 of patients under compulsion of law or contract who does not  
13 supply care or services as a health care provider or who is  
14 engaged in issuing any policy or contract of individual or group  
15 health insurance or hospital or medical service benefits[, but].  
16 The term shall not include the Federal, State, or any local  
17 government unit, authority, or agency thereof or a health  
18 maintenance organization.

19 Section 201. Powers and duties of the department.

20 The Department of Health shall have the power and its duties  
21 shall be:

22 [(1) To act as a single State agency through its staff  
23 and the policy board in serving as the designated sole State  
24 health planning and development agency in accordance with  
25 Titles XV and XVI of the Federal Public Health Service Act.

26 (2)] (1) To exercise exclusive jurisdiction over health  
27 care providers[, and jurisdiction over health maintenance  
28 organizations] in accordance with the provisions of this act.

29 (2) To issue determinations of reviewability or  
30 nonreviewability of certificate of need proposals.

1           (3) To issue certificates of need and amended  
2 certificates of need in accordance with the provisions of  
3 this act.

4           (4) [With respect to health care facilities, to  
5 investigate, and report to the Auditor General, upon every  
6 application to the Auditor General made by any institution,  
7 corporation or unincorporated association, desiring to give a  
8 mortgage under the provisions of the act of April 29, 1915  
9 (P.L.201, No.112), entitled "An act making mortgages, given  
10 by benevolent, charitable, philanthropic, educational and  
11 eleemosynary institutions, corporations, or unincorporated  
12 associations, for permanent improvements and refunding  
13 purposes, prior liens to the liens of the Commonwealth for  
14 the appropriation of moneys; providing a method for the  
15 giving of such mortgages and fixing the duties of the Auditor  
16 General and Board of Public Charities in connection  
17 therewith."] To withdraw expired certificates of need.

18           [(5) To evaluate at least annually its functions and  
19 performance and their economic effectiveness.

20           (6) To prepare, in accordance with applicable Federal  
21 law, an inventory of the health care facilities located in  
22 the Commonwealth and evaluate on an on-going basis the  
23 physical condition of such facilities. The inventory and  
24 evaluation shall be periodically reported to every HSA.

25           (7)] (5) To require, pursuant to regulation, submission  
26 of periodic reports by providers of health services and other  
27 persons subject to review respecting the development of  
28 proposals subject to review.

29           [(8) To research, prepare and after approval by the SHCC  
30 and the Governor publish triennially a State health plan for

1 the Commonwealth based on the various health systems plans.

2 (9) To provide coordination with the National Center for  
3 Health Statistics of the activities of the department for the  
4 collection, retrieval, analysis, reporting and publication of  
5 statistical and other information relating to health and  
6 health care and to require health care providers doing  
7 business in the Commonwealth to make statistical and other  
8 reports of information required by Federal law to be  
9 submitted to the National Center for Health Care Statistics;  
10 and to collect such other information as may be appropriate  
11 to determine the appropriate level of facilities and services  
12 for the effective implementation of certification of need  
13 under this act.

14 (10) To furnish such staff support and expertise to the  
15 department's policy board as may be needed by them to perform  
16 their responsibilities provided that any refusal of a  
17 substantial request from such board be subject to final  
18 determination by the Governor.]

19 (6) Upon consultation with the policy board, to  
20 research, prepare and, after approval by the Governor,  
21 publish, no later than 18 months after the effective date of  
22 this act and annually thereafter, a revised State health  
23 services plan for the Commonwealth as defined under this act.  
24 Until the State health services plan as defined in section  
25 401.4 is adopted, the department shall apply the State health  
26 plan in existence on the effective date of this act, along  
27 with any subsequent updates to that plan.

28 (7) To collect AND DISSEMINATE such other information as <—  
29 may be appropriate to determine the appropriate level of  
30 facilities and services for the effective implementation of

1 certification of need under this act. WHERE SUCH INFORMATION <—  
2 IS COLLECTED BY ANY OTHER AGENCY OF STATE GOVERNMENT,  
3 DUPLICATION SHALL BE AVOIDED BY COORDINATION OF DATA  
4 COLLECTION ACTIVITIES.

5 (8) To furnish such staff support and expertise to the  
6 policy board as may be needed to perform its  
7 responsibilities.

8 [(11)] (9) To receive, [docket] log and review all  
9 applications for certificates of need or amendments thereof  
10 and approve or disapprove the same.

11 [(12)] To determine the Statewide health needs of the  
12 Commonwealth after providing reasonable opportunity for the  
13 submission of written recommendations respecting such needs  
14 by State agencies responsible for planning with regard to  
15 mental health, mental retardation and other developmental  
16 disabilities, and drug and alcohol abuse, as well as other  
17 agencies of State Government designated by the Governor for  
18 the purpose of making such recommendations and after  
19 consulting with SHCC.

20 [(13)] (10) To minimize the administrative burden on  
21 health care providers by eliminating unnecessary duplication  
22 of financial and operational reports and to the extent  
23 possible coordinating reviews and inspections performed by  
24 Federal, State, local and private agencies.

25 [(14)] (11) To adopt and promulgate[, after consultation  
26 with the policy board,] regulations necessary to carry out  
27 the purposes and provisions of this act relating to  
28 certificate of need.

29 [(15)] (12) To enforce the rules and regulations  
30 promulgated by the department as provided in this act.

1 [(16) To consult with the SHCC in the administration of  
2 this act.

3 (17)] (13) To provide technical assistance to  
4 individuals and public and private entities in filling out  
5 the necessary forms for the development of projects and  
6 programs.

7 (14) To establish and publish in the Pennsylvania  
8 Bulletin a fee schedule for certificate of need applications  
9 and letters of intent in accordance with section 905.2. <—  
10 902.1. <—

11 (15) To coordinate any data collection activities  
12 necessary for administration of this act so as not to  
13 duplicate unnecessarily the data collection activities of  
14 other Federal and State agencies.

15 ~~(16) To determine which clinically related health~~ <—  
16 ~~services shall remain on, be added to or be deleted from the~~  
17 ~~list of clinically related health services subject to~~  
18 ~~certificate of need review.~~

19 (16) TO MODIFY THE LIST OF REVIEWABLE CLINICALLY RELATED <—  
20 HEALTH SERVICES ESTABLISHED UNDER SECTION 701.

21 Section 202. Encouragement of competition and innovation.

22 The [health systems agencies and the] department shall in  
23 [their] its planning and review activities foster competition  
24 [and] ~~where competition does not have an adverse impact upon~~ <—

25 ~~cost, quality or~~ TO PROMOTE COST EFFICIENCY, QUALITY AND access <—  
26 to care. The department shall encourage cooperative health care  
27 arrangements which focus on the health care needs of a health  
28 planning area and foster the prudent and economical control of  
29 the area's resources. The department shall also encourage  
30 innovations in the financing and delivery systems for clinically

1 related health services that will promote economic behavior by  
2 consumers and providers of clinically related health services  
3 [and] that [lead] leads to appropriate investment in, supply and  
4 use of health services. [To this end, the health systems plan  
5 and the annual implementation plan adopted by the health systems  
6 agencies and State health plan shall include an assessment of  
7 the current and potential scope of competition and market forces  
8 to establish appropriate investment and utilization patterns in  
9 the Commonwealth and shall specify the public and private  
10 actions needed to strengthen these forces. Revisions of the plan  
11 shall assess individual services or types of providers as to  
12 whether the conditions for competition have improved in the  
13 period since the last plan.]

14 Section 2. Sections 301, 302, 303, 401, 402, 403, 404 and  
15 405 of the act are repealed.

16 Section 3. The act is amended by adding sections to read:  
17 Section 401.1. Health Policy Board.

18 (a) An advisory board is hereby established in the  
19 department, known as the Health Policy Board. The membership of  
20 the board shall consist of:

21 (1) The Secretary of Health, or his designee, who shall  
22 act as chairman.

23 (2) One representative of hospitals.

24 (3) One physician.

25 (4) One representative of a long-term care facility.

26 (5) Two health care providers not already designated,  
27 one of whom shall be a provider of home health services.

28 (6) One representative of Blue Cross or Blue Shield.

29 (7) ONE REPRESENTATIVE OF HEALTH MAINTENANCE  
30 ORGANIZATIONS.

<—

~~(7)~~ (8) One representative of commercial insurance carriers.

~~(8)~~ (9) One representative of business.

~~(9)~~ (10) One representative of organized labor.

~~(10)~~ (11) Three consumers.

~~(11)~~ (12) One representative of county or municipal government.

(b) ALL MEMBERS SHALL BE APPOINTED TO THE POLICY BOARD BY THE GOVERNOR AND CONFIRMED BY A MAJORITY VOTE OF THE SENATE. The Governor shall make all appointments to the policy board within 90 days of the effective date of this act, and the operations of the policy board shall begin immediately upon its full appointment. CONFIRMATION OF THE FULL BOARD. THE SECRETARY SHALL CONVENE THE FIRST MEETING WITHIN 30 DAYS AFTER THE CONFIRMATION OF THE FULL BOARD.

(1) Appointments shall be made in a manner that provides representation of the various geographical regions of this Commonwealth, INCLUDING THOSE MEDICALLY UNDERSERVED AREAS IN RURAL AND INNER-CITY LOCATIONS.

(2) Of the ~~ten~~ 14 members first appointed, ~~three~~ FOUR shall be appointed for a term of one year, ~~three~~ FIVE for a term of two years and ~~four~~ FIVE for a term of three years. Thereafter, appointments shall be made for a term of three years.

(3) No appointed member shall serve more than two full consecutive terms of three years.

(4) No policy board member, other than the secretary, may act or attend through a designee or a proxy.

(c) A simple majority of those members with current appointments of the policy board shall constitute a quorum for

1 the transaction of any business. The act by the majority of the  
2 members present at any meeting in which there is a quorum shall  
3 be deemed to be an act of the board.

4 (d) All meetings of the policy board shall be advertised and  
5 conducted pursuant to the act of July 3, 1986 (P.L.388, No.84),  
6 known as the "Sunshine Act." The board shall meet at least four  
7 times a year and may provide for special meetings as may be  
8 necessary.

9 (e) The members of the policy board shall not receive any  
10 compensation for serving as members of the board but shall be  
11 reimbursed at established Commonwealth rates for necessary  
12 expenses incurred in the performance of their duties.

13 Section 401.2. Powers and duties of policy board.

14 The policy board shall exercise all powers necessary and  
15 appropriate to carry out its duties, including the following:

16 (1) Advise and assist the department in development and  
17 revision of the State health services plan.

18 (2) Annually review a work plan developed by the  
19 department which identifies those provisions of the State  
20 health services plan which must be revised, reconsidered or  
21 developed within the succeeding calendar year.

22 (3) Annually review the list of clinically related  
23 health services subject to review developed by the department  
24 pursuant to the provisions of section 701.

25 Section 401.3. State health services plan.

26 The State health services plan shall consist of, at a  
27 minimum:

28 (1) An identification of the clinically related health  
29 services necessary to serve the health needs of the  
30 population of this Commonwealth, INCLUDING THOSE MEDICALLY

<—



1     UNDERSERVED AREAS IN RURAL AND INNER-CITY LOCATIONS.

2             (2) An analysis of the availability, accessibility and  
3     affordability of the clinically related health services  
4     necessary to meet the health needs of the population of this  
5     Commonwealth.

6             (3) Qualitative and quantitative STANDARDS AND criteria     <—  
7     for the review of certificate of need applications by the  
8     department under this act.

9             (4) An exceptions process which permits exceptions to be  
10    granted to the standards and criteria in order to reflect  
11    local experience or ensure access or to respond to  
12    circumstances which pose a threat to public health and  
13    safety.

14    Section 4. Section 501 of the act is amended to read:

15    Section 501. State Health Facility Hearing Board.

16    There is hereby created the State Health Facility Hearing  
17    Board in the [Department of Justice] Office of General Counsel

18    which shall consist of [three] FIVE members who shall initially     <—  
19    be appointed for terms of one, two and three years respectively  
20    by the Governor and confirmed by a majority vote of the Senate.

21    Thereafter, appointments shall be by the Governor for four year

22    terms AND CONFIRMED BY A MAJORITY VOTE OF THE SENATE. Members     <—

23    shall be chosen for their familiarity and experience with health  
24    care facilities or for relevant training and experience which  
25    will assist the board to perform its functions. Appointments

26    shall be made to ensure that at least one of the members shall  
27    be a member of the bar of the Supreme Court of Pennsylvania. No

28    person shall be chosen who is at the time of appointment an  
29    employee of the Commonwealth or of any health care provider. No  
30    member shall participate in any action or decision concerning

1 any matter in which the member has an economic interest or other  
2 conflict of interest.

3 Section 5. ~~Sections 502 and 505~~ SECTION 502 of the act, <—  
4 amended July 12, 1980 (P.L.655, No.136), ~~are~~ IS amended to read: <—  
5 Section 502. Powers and duties of the hearing board.

6 (a) The hearing board shall have the powers and its duties  
7 shall be:

8 (1) To hear appeals BY THE APPLICANT OR INTERESTED <—  
9 PERSONS from departmental decisions on applications for  
10 certificates of need or amendments thereto and from  
11 determinations of reviewability.

12 (2) To hear upon petition objections to published  
13 regulations, criteria, or standards of the [health systems  
14 agency or] department as to the policies therein set forth  
15 and where appropriate to request the promulgating agency to  
16 reconsider such policies SET FORTH IN THIS CHAPTER FOR <—  
17 CERTIFICATE OF NEED.

18 [(3) To hear appeals from decisions of the department  
19 which require a person to obtain a certificate of need for  
20 major medical equipment or the acquisition of an existing  
21 health care facility.

22 (4)] (3) To fix the place of hearings in the area from  
23 which the application arises in matters relating to  
24 certificate of need.

25 (b) Hearings may be held before one or more members of the  
26 board, but action of the board shall be made by majority vote of  
27 the board.

28 SECTION 6. SECTION 503 OF THE ACT IS AMENDED TO READ: <—  
29 SECTION 503. COUNSEL.

30 THE [ATTORNEY GENERAL] OFFICE OF GENERAL COUNSEL SHALL

1 APPOINT COUNSEL TO SERVE AND ADVISE THE HEARING BOARD AND SHALL  
2 REPLACE SUCH COUNSEL UPON REQUEST OF THE BOARD.

3 SECTION 7. SECTION 505 OF THE ACT, AMENDED JULY 12, 1980  
4 (P.L.655, NO.136), IS AMENDED TO READ:

5 Section 505. Hearings before the hearing board.

6 (a) All hearings before the hearing board shall be subject  
7 to right of notice, hearing and adjudication in accordance with  
8 2 Pa.C.S. Chaps. 5 and 7, known as the Administrative Agency  
9 Law, and a written record shall be kept of said proceedings and  
10 a copy thereof provided to the parties at cost.

11 (b) Persons conducting hearings under this act shall have  
12 the power to subpoena witnesses and documents required for the  
13 hearing, to administer oaths and examine witnesses and receive  
14 evidence in any locality which the hearing body may designate,  
15 having regard to the public convenience and proper discharge of  
16 its functions and duties.

17 (c) Notice of hearings before the hearing board shall be  
18 given to the parties at least 21 days in advance of the hearing.  
19 In appeals to the board from the decision of the department on  
20 an application for certificate of need or amendment thereof,  
21 notice of the same shall be published in a newspaper in general  
22 circulation in the [health service area and to the] areas  
23 [affected] where the service is proposed and in the Pennsylvania  
24 Bulletin at least 14 days before the hearing.

25 (d) The hearing board shall have the authority to adopt  
26 rules and regulations establishing procedures for the taking of  
27 appeals and other procedural rules and regulations as it deems  
28 advisable AS PROVIDED IN SECTION 601. <—

29 Section ~~6~~ 8. Section 506 of the act is amended to read: <—

30 Section 506. Appeals to the hearing board.

1 [(a) Decisions of the department on an application for a  
2 certificate of need or amendment thereto may be appealed within  
3 30 days by any party or health systems agency who is involved in  
4 the proceeding. The appeal to the hearing board shall be  
5 commenced within 30 days of the appeal and shall be limited to  
6 issues raised by the appellant in the specification of  
7 objections to the decision of the department which shall raise  
8 no further issues not brought to the attention of the health  
9 systems agency or the department, and the board shall entertain  
10 no evidence that the hearing board is satisfied the appellant  
11 was able, by the exercise of reasonable diligence, to have  
12 submitted before the health systems agency and the department.]

13 (a) A decision of the department on an application for a  
14 certificate of need or amendment thereto or a determination of  
15 reviewability may be appealed within 30 days of the mailing date  
16 of the decision BY THE APPLICANT OR BY INTERESTED PERSONS WHO <—  
17 PARTICIPATED IN THE INITIAL REVIEW. The appeal to the hearing  
18 board shall be commenced within 30 days of the filing of the  
19 notice of appeal. The appellant shall raise no issues not  
20 brought to the attention of the department during its review,  
21 and the board shall neither hear nor receive evidence unless it  
22 is satisfied the appellant was unable to submit such evidence  
23 before the department. For purposes of this subsection, an  
24 appeal shall be deemed to commence with the establishment by the  
25 board of a schedule for the filing of briefs by the parties to  
26 the appeal.

27 (b) [The] In reaching its decisions, the hearing board shall  
28 be bound by the duly promulgated regulations of the department  
29 and shall [give due deference to] RECOGNIZE the expertise of <—  
30 [the health systems agencies and] the department [in reaching

1 their decisions]. It shall receive any evidence as to challenges  
2 of the authority of the department or the reasonableness of the  
3 criteria or regulations used in the review of the application  
4 for the sole purpose of creating a record for any subsequent  
5 appeal to court.

6 [(c) When any decision of the hearing board is inconsistent  
7 with the recommendations made with respect thereto by a health  
8 systems agency, or with the applicable health systems plan or  
9 annual implementation plan, the hearing board shall submit to  
10 such health systems agency and all parties to the proceeding a  
11 written, detailed statement of the reasons for the  
12 inconsistency.]

13 (C) THE HEARING BOARD SHALL SUBMIT TO ALL PARTIES TO THE <—  
14 PROCEEDING A WRITTEN, DETAILED STATEMENT WHICH SETS FORTH ITS  
15 DECISION AND THE REASONING UPON WHICH THE DECISION IS BASED.

16 Section 7 9. Section 507 of the act, repealed in part <—  
17 October 5, 1980 (P.L.693, No.142), is amended to read:  
18 Section 507. Appeals and procedures on appeals.

19 The action of the hearing board may be appealed by any party  
20 [or health systems agency] who is involved in [that proceeding]  
21 the appeal before the board.

22 Section 8 10. Section 601 of the act, amended July 12, 1980 <—  
23 (P.L.655, No.136) AND REPEALED IN PART JUNE 25, 1982 (P.L.633, <—  
24 NO.181), is amended to read:

25 Section 601. Promulgation of rules and regulations.

26 [(a) All rules and regulations under this act shall be  
27 prepared by the department and submitted for review by the  
28 policy board and the department shall consult with the policy  
29 board before proposed regulations are published.

30 (b) All rules and regulations adopted under this act shall

1 provide fair access and due process in all proceedings held to  
2 carry out the provisions of this act and shall not require an  
3 applicant to supply data or information as to other health care  
4 facilities or health maintenance organizations.

5 (e) The department shall also publish a notice of the  
6 availability of proposed regulations relating to certificate of  
7 need and any revisions thereof in accordance with the  
8 designation agreement with the Secretary of Health, Education  
9 and Welfare, if any, in at least two newspapers in general  
10 circulation in the Commonwealth, together with a place they may  
11 be examined and copied by interested persons.

12 (f) Proposed regulations establishing certificate of need  
13 review procedures and criteria or changes therein shall be  
14 distributed by the department to the SHCC, each health systems  
15 agency operating in the Commonwealth and Statewide health  
16 agencies and organizations and those agencies, if any, which  
17 establish rates for health care facilities and health  
18 maintenance organizations.

19 (g) The department shall distribute copies of adopted final  
20 regulations on certificate of need review procedures and  
21 criteria, and any revisions thereof, to persons set forth in  
22 subsection (f) and to the Departments of Health, Education and  
23 Welfare and shall provide such copies to other interested  
24 persons upon request.

25 (h) Prior to review by the department of new institutional  
26 health services under this act, the department shall disseminate  
27 to all health care facilities and health maintenance  
28 organizations within the Commonwealth, and shall publish in one  
29 or more newspapers in general circulation within the  
30 Commonwealth a description of coverage of the certificate of

1 need program for review, as determined under regulations, and  
2 any revisions thereof shall be similarly disseminated and  
3 published.]

4 (A) The department, in the exercise of its duties under this <—  
5 act, shall have the power to adopt such regulations as are  
6 necessary to carry out the purposes of this act. Regulations  
7 shall be adopted in conformity with the provisions of the act of  
8 July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth  
9 Documents Law, and the act of June 25, 1982 (P.L.633, No.181),  
10 known as the "Regulatory Review Act."

11 (B) ALL RULES AND REGULATIONS ADOPTED UNDER THIS ACT SHALL <—  
12 PROVIDE FAIR ACCESS AND DUE PROCESS IN ALL PROCEEDINGS HELD TO  
13 CARRY OUT THE PROVISIONS OF THIS ACT AND SHALL NOT REQUIRE AN  
14 APPLICANT TO SUPPLY DATA OR INFORMATION AS TO OTHER HEALTH CARE  
15 FACILITIES OR HEALTH CARE PROVIDERS.

16 Section 9 11. Section 603 of the act, amended July 12, 1980 <—  
17 (P.L.655, No.136) and repealed in part October 5, 1980 (P.L.693,  
18 No.142) and December 20, 1982 (P.L.1409, No.326), is amended to  
19 read:

20 Section 603. Enforcement of orders relating to certificate of  
21 need.

22 (a) (1) No certificate of need shall be granted to any  
23 person for a [new institutional] health care facility or  
24 reviewable, clinically related health service unless such  
25 [new institutional] facility or clinically related health  
26 service is found by the department to be needed.

27 (2) [Only those new institutional health services which  
28 are granted certificates of need shall be offered or  
29 developed within the Commonwealth by any person.] No person  
30 shall offer or develop a health care facility or reviewable

1 clinically related health service without obtaining a  
2 certificate of need AS REQUIRED BY THIS ACT. <—

3 (3) [No expenditures in excess of \$150,000 in  
4 preparation for the offering or development of a new  
5 institutional health service shall be made by any person  
6 unless a certificate of need for such services or  
7 expenditures has been granted.

8 (4)] No binding arrangement or commitment for financing  
9 the offering or development of a [new institutional] health  
10 care facility or reviewable clinically related health service  
11 shall be made by any person unless a certificate of need for  
12 such [new institutional] clinically related health service or  
13 facility[, or the preparation for the offering or development  
14 of the same] has been granted IN ACCORDANCE WITH THIS ACT. <—

15 (b) Orders for which the time of appeal has expired shall be  
16 enforced by the department in summary proceedings or, when  
17 necessary, with the aid of the court.

18 (c) No collateral attack on any order, including questions  
19 relating to jurisdiction shall be permitted in the enforcement  
20 proceeding, but such relief may be sought when such relief has  
21 not been barred by the failure to take a timely appeal.

22 (d) Any person operating a [new institutional] reviewable  
23 clinically related health service or health care facility within  
24 this Commonwealth for which no certificate of need has been  
25 obtained, after service of a cease and desist order of the  
26 department, or after expiration of the time for appeal of any  
27 final order on appeal, upon conviction thereof, shall be  
28 sentenced to pay a fine of not less than \$100 or more than  
29 \$1,000 and costs of prosecution. Each day of operating a [new  
30 institutional] clinically related health service or health care



1 facility after issuance of a cease and desist order shall  
2 constitute a separate offense.

3 (e) Any person [violating] who violates this act by [a  
4 willful failure] failing to obtain a certificate of need, [or  
5 willfully] by deviating from the provisions of the certificate,  
6 [or] by beginning construction, [or] by providing services, or  
7 by acquiring equipment after the expiration of a certificate of  
8 need shall be subject to a penalty of not less than \$100 per day  
9 and not more than \$1,000 per day. Each day [after notice to them  
10 of the existence] of EACH such violation shall be considered a <—  
11 separate offense.

12 (f) The department [shall] may seek injunctive relief to  
13 prevent continuing violations of this act. In seeking such  
14 relief, the department need not prove irreparable harm.

15 (g) No license to operate a health care facility, [health  
16 maintenance organization, or new institutional] or reviewable  
17 clinically related health service by any person in this  
18 Commonwealth shall be granted and any license issued shall be  
19 void and of no effect as to any facility, organization, service  
20 or part thereof for which a certificate of need is required by  
21 this act and not granted.

22 [(h) No person shall acquire major medical equipment which  
23 will not be owned or operated in a health care facility or  
24 acquire an existing health care facility except in accordance  
25 with this act.]

26 Section ~~10~~ 12. Section 701 of the act, amended July 12, 1980 <—  
27 (P.L.655, No.136), is amended to read:

28 Section 701. Certificate of need required; [new institutional]  
29 clinically related health services subject  
30 to review.

1 [(a) No person shall offer, develop, construct or otherwise  
2 establish or undertake to establish within the State a new  
3 institutional health service without first obtaining a  
4 certificate of need from the department. For purposes of this  
5 chapter, "new institutional health services" shall include:

6 (1) The construction development or other establishment  
7 of a new health care facility or health maintenance  
8 organization.

9 (2) Any expenditure by or on behalf of a health care  
10 facility or health maintenance organization in excess of  
11 \$150,000 which, under generally accepted accounting  
12 principles consistently applied, is a capital expenditure.  
13 Expenditures for acquisitions of existing health care  
14 facilities and health maintenance organizations shall not be  
15 included unless the notice required by subsection (i) of  
16 section 702 is not filed or the department finds within 30  
17 days of receipt of such notice that the services or bed  
18 capacity of the health care facility will be changed in being  
19 acquired. An acquisition by or on behalf of a health care  
20 facility or health maintenance organization under lease or  
21 comparable arrangement, or through donation, which would have  
22 required review if the acquisition had been by purchase,  
23 shall be deemed a capital expenditure subject to review.

24 (3) The obligation of any capital expenditure by or on  
25 behalf of a health care facility which results in the  
26 addition of a health service not provided in or through the  
27 facility in the previous 12 months or which increases the  
28 number of beds (or redistributes beds among various  
29 categories other than levels of care in a nursing home, or  
30 relocates such beds from one physical facility or site to

1 another) by more than ten beds or more than 10% of total bed  
2 capacity, as defined by the regulations, whichever is less,  
3 over a two-year period.

4 (4) The addition of a health service which is offered in  
5 or through a health care facility having an operating expense  
6 in excess of the minimum annual operating expense established  
7 in accordance with Title XV of the Federal Public Health  
8 Service Act, and which were not offered on a regular basis in  
9 or through such health care facility or health maintenance  
10 organization within the 12-month period prior to the time  
11 such services would be offered.

12 (5) Major medical equipment not owned by or located in a  
13 health care facility which will:

14 (i) be used to provide service for inpatients of a  
15 health care facility; or

16 (ii) for which a notice was not provided in  
17 accordance with subsection (i) of section 702.

18 (b) (1) Any expenditure by or on behalf of health care  
19 facilities or a health maintenance organization in excess of  
20 \$150,000 made in preparation for the offering or development  
21 of a new institutional health service and any binding  
22 arrangement or commitment by either of them for financing the  
23 offering or development of the new institutional health  
24 service shall be subject to review under this chapter.

25 (2) Nothing in this paragraph shall preclude the  
26 department from granting a certificate of need which permits  
27 expenditures only for predevelopment activities, but does not  
28 authorize the offering or development of the new  
29 institutional health service with respect to which such  
30 predevelopment activities are proposed.

1 (c) Notwithstanding the provisions of subsection (a) or (b)  
2 a new institutional health service acquired, owned or operated  
3 by a health maintenance organization and home health care shall  
4 be subject to the provisions of this act only to the extent  
5 required by Federal law.

6 (d) As higher minimum expenditures requiring review are set  
7 by the Federal Government, those limits shall immediately apply  
8 in lieu of the minimum expenditure limits set by this act.]

9 (a) Any person, including, but not limited to, a health care  
10 facility, health maintenance organization or health care  
11 provider who offers, develops, constructs, renovates, expands or  
12 otherwise establishes or undertakes to establish within the  
13 State a clinically related health service that is included in  
14 the department's list of reviewable services developed under  
15 subsection (d), (e) or (f) SUBSECTIONS (D) AND (E) or a health <—  
16 care facility as defined in section 103 must obtain a  
17 certificate of need from the department if one or more of the  
18 following factors applies:

19 (1) The proposal requires a capital expenditure in  
20 excess of \$2,000,000 under generally accepted accounting  
21 principles, consistently applied.

22 (2) The proposal involves the establishment of a health  
23 care facility or a reviewable clinically related health  
24 service.

25 (3) The proposal increases the number of licensed beds  
26 by more than ten beds or 10%, whichever is less, every two  
27 years.

28 (i) If the additional beds are acute-care beds and  
29 are not beds in a distinct-part psychiatric,  
30 rehabilitation or long-term care unit, all licensed beds

1 of the acute-care facility shall be counted in  
2 determining whether the increased number of beds exceeds  
3 10%.

4 (ii) If the additional beds are beds in a distinct-  
5 part psychiatric, rehabilitation or long-term care unit  
6 of an acute-care facility, only the beds within that unit  
7 shall be counted in determining whether the increased  
8 number of beds exceeds 10%.

9 (iii) If the additional beds are in a ~~free-standing~~ <—  
10 FREESTANDING psychiatric, rehabilitation or long-term <—  
11 care facility, all licensed beds of the FREESTANDING <—  
12 facility shall be counted in determining whether the  
13 increased number of beds exceeds 10%.

14 (4) The proposal substantially expands an existing  
15 clinically related health service, as determined by the  
16 department in the State health services plan.

17 (b) For the purposes of this act, an expenditure for the  
18 purpose of acquiring an existing health care facility OR <—  
19 REPLACEMENT OF EQUIPMENT WHERE THERE IS NO CHANGE IN SERVICE  
20 shall not be considered to be a capital expenditure subject to  
21 review. Expenditures for nonclinical activities or services,  
22 such as parking garages, computer systems or refinancing of  
23 debt, and research projects involving premarket approval of new  
24 equipment shall not be subject to review.

25 (c) The capital expenditure threshold identified in  
26 subsection (a)(1) may be modified periodically by the department  
27 to reflect any increase in the construction cost or other  
28 factors influencing health care-related capital expenditures.  
29 The department shall publish a modification as a statement of <—  
30 policy in the Pennsylvania Code. OF THE EXPENDITURE THRESHOLD <—

1 THROUGH THE REGULATORY REVIEW PROCESS.

2 (d) A list of reviewable clinically related health services  
3 shall be issued by the department on an annual basis. PUBLISHED <—  
4 BY THE DEPARTMENT WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS  
5 ACT AND MAY BE MODIFIED BY REGULATION ON AN ANNUAL BASIS.  
6 EXCLUSIVE OF NEW HIGH COST TECHNOLOGY, THE INITIAL LIST  
7 PUBLISHED BY THE DEPARTMENT AS REQUIRED UNDER THIS SUBSECTION  
8 SHALL BE NO MORE EXTENSIVE THAN THOSE SERVICES REVIEWABLE ON THE  
9 EFFECTIVE DATE OF THIS ACT. Criteria for inclusion of reviewable  
10 services shall include, but not be limited to:

11 (1) the quality of the service to be offered is likely  
12 to be compromised through insufficient volumes or  
13 utilization;

14 (2) the service is dependent upon the availability of <—  
15 scarce natural resources such as human organs;

16 (3) the operating costs associated with the service are  
17 reimbursed by major third party payors on a cost  
18 reimbursement basis; or

19 (4) the service involves the use of new technology.

20 ~~(e) Within 30 days of the effective date of this act, the~~ <—  
21 ~~department shall publish a list of reviewable clinically related~~  
22 ~~health services, as defined under this act, which it has~~  
23 ~~determined will be subject to review pursuant to the provisions~~  
24 ~~of subsection (d). The list shall apply to all proposals~~  
25 ~~reviewed by the department on or after the effective date of~~  
26 ~~this act.~~

27 ~~(f) With the exception of the reviewable list specified in~~  
28 ~~subsection (e), the list of reviewable services shall be~~  
29 ~~developed by the department after consultation with the policy~~  
30 ~~board.~~

1     (E) ANY CHANGES TO THE LIST REQUIRED UNDER SUBSECTION (D)     <—  
2     AND PROPOSED BY REGULATION SHALL BE DEVELOPED BY THE DEPARTMENT  
3     AFTER CONSULTATION WITH THE POLICY BOARD.

4     ~~(G)~~ (F) A facility providing treatment solely on the basis     <—  
5     of prayer or spiritual means in accordance with the tenets of  
6     any church or religious denomination, or a facility conducted by  
7     a religious organization for the purpose of providing health  
8     care services exclusively to clergy or other persons in a  
9     religious profession who are members of the religious  
10    denomination conducting the facility shall not be considered to  
11    constitute a health service subject to review under this act.

12    (G) AS USED IN THIS SECTION, "NEW HIGH COST TECHNOLOGY"     <—  
13    MEANS NEW TECHNOLOGICAL EQUIPMENT WITH AN AGGREGATE PURCHASE  
14    COST OF GREATER THAN \$500,000. THE DEPARTMENT SHALL CONSULT WITH  
15    NATIONAL MEDICAL AND SURGICAL SPECIALITY ORGANIZATIONS  
16    RECOGNIZED BY THE AMERICAN BOARD OF MEDICAL SPECIALITIES (ABMS)  
17    AND OTHER NATIONALLY RECOGNIZED SCIENTIFIC RESOURCES IN THE  
18    DETERMINATION OF WHAT CONSTITUTES NEW TECHNOLOGICAL EQUIPMENT.

19    Section ~~11~~ 13. Section 702 of the act, amended July 12, 1980     <—  
20    (P.L.655, No.136) and repealed in part December 20, 1982  
21    (P.L.1409, No.326), is amended to read:

22    Section 702. Certificates of need; notice of intent;  
23                   application; issuance.

24    (a) Projects [for facilities, services or equipment]  
25    requiring a certificate of need shall, at the earliest possible  
26    time in their planning, be submitted to [the health systems  
27    agency and] the department in a letter of intent in such detail  
28    advising of the scope and nature of the project as required by  
29    regulations. Within 30 days after receipt of the letter of  
30    intent, the department shall inform the applicant providing the

1 letter of intent whether the proposed project is subject to a  
2 certificate of need review or if additional information is  
3 required to make that determination. If the department  
4 determines that the project is subject to a certificate of need  
5 review, the project shall be subject to the remaining provisions  
6 of this act.

7 (b) A person desiring to obtain or amend a certificate of  
8 need shall apply IN WRITING to the [local health systems agency, <—  
9 if any, and to the department simultaneously supplying to them  
10 such information as is required by rules and regulations]  
11 department supplying such information as is required by the  
12 department in writing. The [health systems agency and the] <—  
13 department shall have [20] ~~45~~ 60 business days after receipt of <—  
14 the application within which to [determine whether] assess the  
15 application [is complete] and in which to request specific  
16 further information. If further information is requested, the  
17 [agency requiring the same shall determine whether] department  
18 shall complete its preliminary assessment of the application [is  
19 complete] within [15] ~~30~~ 45 business days of receipt of the <—  
20 same. {No information shall be required that is not specified in <—  
21 the rules and regulations promulgated by the department.} <—

22 (c) Timely notice of the beginning of review of the  
23 application by the [health systems agency shall be sent with the  
24 notice of a completed application, upon the expiration of the  
25 time to determine that an application is complete, or 60 days or  
26 more after the filing of the application upon written demand by  
27 the applicant that review begin, whichever shall first occur,  
28 and the review shall be completed within 60 days of the "date of  
29 notification" unless the applicant agrees in writing to a  
30 specified extension of time for the review by the health systems



1 agency. A health systems agency shall have, at least, 60 days to  
2 complete its review unless the health systems agency waives such  
3 time in writing.] department shall be published after  
4 preliminary assessment of the application is completed by the  
5 department. The "date of notification" of the beginning of  
6 review shall be the date such notice is sent, or the date such  
7 notice is published in the Pennsylvania Bulletin or in a  
8 newspaper of general circulation, whichever is [later] latest.

9 (d) The department shall [consider the timely filed  
10 recommendations or objections of the health systems agency in  
11 reviewing the application and shall approve or disapprove the  
12 application, unless there is an agreed extension in writing,  
13 within 30 days from receipt of the health systems agency report  
14 or report on a hearing for reconsideration before the health  
15 systems agency, whichever is later, or upon the expiration of  
16 the time for filing the same. If no action is taken within the  
17 time permitted the department to make its findings, the  
18 applicant may, following expiration of that time period, bring  
19 an action in Court to require the department to approve or  
20 disapprove the application and the court shall promptly issue  
21 such an order upon proof that the period has been exceeded. If  
22 permitted by amendment of the Federal law or regulation any  
23 application upon which action is not taken within the prescribed  
24 time shall be deemed needed and the department shall have no  
25 right of appeal with respect thereto. No new institutional  
26 health service shall be granted a certificate of need unless  
27 found or deemed to be found needed by the department or on  
28 appeal therefrom.] approve or disapprove the application within  
29 90 days from the date of notification of the beginning of the  
30 review. Upon written notice to the applicant, the department is <—

~~entitled to one extension, not to exceed 30 days, for review of  
the application. The applicant must agree in writing to  
additional extensions. No health care facility or reviewable  
clinically related health service shall be granted a certificate  
of need unless found to be needed by the department or on appeal  
therefrom. UNLESS THE PERIOD FOR REVIEW IS EXTENDED BY THE  
APPLICANT IN WRITING.~~

(e) (1) Certificates of need shall be granted or refused.

They shall not be conditioned upon the applicant changing  
other aspects of its facilities or services or requiring the  
applicant to meet other specified requirements, ~~and no such~~  
condition shall be imposed by the department [or the health  
systems agency] in granting or refusing approval [or  
recommendation] ~~that do not relate to the intent and  
objectives of this act.~~ OF CERTIFICATES OF NEED.

(2) A certificate of need shall state the maximum amount  
of expenditures which may be obligated under it and  
applicants proceeding with an approved project may not exceed  
this level of expenditure except as allowed under the  
conditions and procedures established by the department  
through regulation.

(f) (1) The department shall make written findings which  
state the basis for any final decision made by the  
department. Such findings shall be [served upon the  
applicant, the health systems agency or agencies, and all  
parties to the proceedings, and shall be made available to  
others upon request.] ~~provided to the applicant and all  
persons expressing an interest in the proceedings, and shall  
be made available to others upon written request.~~ SERVED UPON  
THE APPLICANT AND PROVIDED TO ALL PERSONS EXPRESSING AN

1 INTEREST IN THE PROCEEDINGS AND SHALL BE MADE AVAILABLE TO  
2 OTHERS UPON WRITTEN REQUEST.

3 (2) All decisions of the department shall be based  
4 solely on the record. No ex parte contact regarding the  
5 application between any employee of the department who  
6 exercises responsibilities respecting the application and the  
7 applicant, any person acting on behalf of the applicant or  
8 any person opposed to the issuance of the certificate of need  
9 shall occur after the commencement of a hearing on the  
10 application and before a decision is made by the department.

11 [(g) When the department makes a decision regarding the  
12 proposed new institutional health service which is inconsistent  
13 with the recommendation made with respect thereto by a health  
14 systems agency, or with the applicable health systems plan or  
15 annual implementation plan, the department shall submit to such  
16 health systems agency and all parties to the proceeding a  
17 written, detailed statement of the reasons for the  
18 inconsistency.

19 (h)] (g) Modification of the application at any stage of the  
20 proceeding shall not extend the time limits provided by this act  
21 unless the [health systems agency] department expressly finds  
22 that the modification represents a substantial change in the  
23 character of the application.

24 (h) The responsibility of performing certificate of need  
25 review may not be delegated by the department to a local or <—  
26 regional entity. The department shall consider recommendations  
27 of one or more community-based health services planning  
28 committees whose localities are affected by specific  
29 applications.

30 [(i) (1) Before any person enters into a contractual

1 arrangement to acquire major medical equipment which will not  
2 be owned by or located in a health care facility or before  
3 any person acquires an existing health care facility, such  
4 person shall notify the department of such person's intent to  
5 acquire such equipment or existing health care facility.

6 (2) The notice shall be in writing in a form specified  
7 by the department and shall be made at least 30 days before  
8 contractual arrangements are entered into to acquire the  
9 major medical equipment or the existing health care facility.

10 (3) In the case of the intended acquisition of major  
11 medical equipment, the notice shall contain information  
12 regarding the use that will be made of the equipment. In the  
13 case of the intended acquisition of an existing health care  
14 facility, the notice shall contain information with regard to  
15 the services to be offered in the facility and its bed  
16 capacity.

17 (4) Within 30 days after the receipt of the notice, the  
18 department shall inform the person providing the notice  
19 whether or not the proposed acquisition is a new  
20 institutional health service. If the department determines  
21 that the acquisition will be a new institutional health  
22 service, the acquisition shall be subject to the remaining  
23 provisions of this act.

24 (5) A decision of the department that an acquisition  
25 requires a certificate of need may be appealed to the Health  
26 Facility Hearing Board.

27 (j) (1)] (i) The department [shall] may provide [for] THAT <—  
28 categories of projects [which] shall receive simultaneous and <—  
29 comparative review. [and periods in which applications for such  
30 projects must be received (and prohibiting submission of

1 applications outside such periods). The time between the  
2 beginning of any such period and the beginning of the next  
3 succeeding period for submission of applications for any  
4 category shall not exceed four months. No project shall be  
5 subject to such submission limitations if a notice of intent to  
6 submit an application for the project is submitted prior to the  
7 publication in the Pennsylvania Bulletin of a notice of proposed  
8 rule making by the department to establish a category subject to  
9 submission limitations.

10 (2) The following projects shall be exempt from any of  
11 the above batching provisions set forth in paragraph (1):

12 (i) Replacement of equipment not involving a  
13 substantial change in functional capacity or capability.

14 (ii) Renovations necessary to meet code requirements  
15 which do not expand the capacity of the facility or  
16 involve the addition of new services.

17 (iii) Repairs or reconstruction in the cases of  
18 emergency.

19 (iv) Installation of equipment or renovations which  
20 will save energy but which do not expand the capacity of  
21 the facility or involve the addition of a new service.]

22 Section ~~12~~ 14. Section 704 of the act, amended July 12, 1980 <—  
23 (P.L.655, No.136), is amended to read:

24 Section 704. [Hearings before the department] Notice of public  
25 meetings.

26 [(a) The function of holding a public hearing is hereby  
27 delegated to the appropriate HSA unless the department and the  
28 HSA agree otherwise in writing in a particular case. If a public  
29 hearing has been held by the health systems agency, no hearing  
30 shall be held by the department in reaching its final decision.

1 If there has been no provision for such hearings before the  
2 health systems agency, the department shall provide notice of a  
3 public hearing and conduct that hearing in accordance with the  
4 provisions of section 703(b).

5 (b) Any person may, for good cause shown, request, in  
6 writing, a public hearing for the purpose of reconsideration of  
7 a decision of the department within ten days of service of the  
8 decision of the department. The department shall set forth the  
9 cause for the hearing and the issues to be considered at such  
10 hearing. If such hearing is granted, it shall be held no sooner  
11 than six days and no later than 14 days after such request is  
12 made, and may be limited to the issues submitted for  
13 reconsideration. A summary of the oral testimony shall be made  
14 of the hearing, and copies thereof supplied at cost to the  
15 parties. The department shall affirm or reverse its decision and  
16 submit the same to the parties, the persons requesting the  
17 hearing, and the health systems agency within 14 days of the  
18 conclusion of such hearing. Any change in the decision shall be  
19 supported by the reasons therefor.

20 (c) Where hearings are held on more than two days,  
21 consecutive days of hearings and intervening weekends and  
22 holidays shall be excluded in calculating the time permitted for  
23 the department to conduct its review, and if briefs are to be  
24 filed, ten days subsequent to the adjournment of the hearing  
25 shall also be excluded.]

26 (a) Notification of the beginning of review of a certificate  
27 of need application shall be published by the department in the  
28 appropriate news media and in the Pennsylvania Bulletin in  
29 accordance with 45 Pa.C.S. Ch. 7 Subch. B (relating to  
30 publication of documents). The notice shall identify the

schedule for review, the date by which a public meeting must be requested, and the manner in which notice will be given of a meeting, if one is held.

(b) Interested persons may request a public meeting within 15 days of publication AND THE DEPARTMENT SHALL HOLD SUCH A MEETING or the department may require a public meeting during the course of such review. The department shall publish written notice of the meeting in the appropriate news media and the Pennsylvania Bulletin at least 14 days prior to the public meeting date. In the meeting, the applicant and any interested person providing prior notice to the department shall have the right to present oral or written comments and relevant evidence on the application in the manner prescribed by the department. The department shall prepare a transcript of the oral testimony presented at the meeting. Meetings shall be held in accordance with the guidelines and procedures established by the department and published in the Pennsylvania Code as a statement of policy. The department may require the applicant to provide copies of the application to any interested person making a request for such application, at the expense of the interested person.

(c) The applicant may, for good cause shown, request in writing a public ~~meeting~~ HEARING for the purpose of reconsideration of a decision of the department within ten days of service of the decision of the department. The department shall treat the request in accordance with the provisions of 1 Pa. Code 35.241 (relating to application for rehearing or reconsideration). The department shall set forth the cause for the ~~meeting~~ HEARING and the issues to be considered at such ~~meeting~~. If such ~~meeting~~ HEARING. IF SUCH HEARING is granted, it shall be held no sooner than six days and no later than 30 days

1 after the notice to grant such a ~~meeting~~ HEARING, and shall be <—  
2 limited to the issues submitted for reconsideration. A  
3 transcript shall be made of the ~~meeting~~ HEARING AND A COPY OF <—  
4 THE TRANSCRIPT SHALL BE PROVIDED AT COST TO THE APPLICANT. The  
5 department shall affirm or reverse its decision and submit the  
6 same to the person requesting the ~~meeting~~ HEARING within 30 days <—  
7 of the conclusion of such ~~meeting~~ HEARING. Any change in the <—  
8 decision shall be supported by the reasons for the change.

9 (d) Where ~~meetings~~ HEARINGS under subsection (b) are held on <—  
10 more than two days, consecutive days of ~~meetings~~ HEARINGS and <—  
11 intervening weekends and holidays shall be excluded in  
12 calculating the time permitted for the department to conduct its  
13 review, and if briefs are to be filed, ten days subsequent to  
14 the adjournment of the ~~meeting~~ HEARING shall also be excluded. <—

15 ~~Section 13. Section 706 of the act is amended to read:~~ <—

16 SECTION 15. SECTIONS 705 AND 706 OF THE ACT ARE AMENDED TO <—  
17 READ:

18 SECTION 705. GOOD CAUSE.

19 GOOD CAUSE SHALL BE DEEMED TO HAVE BEEN SHOWN IF:

20 (1) THERE IS SIGNIFICANT, RELEVANT INFORMATION NOT  
21 PREVIOUSLY CONSIDERED;

22 (2) THERE IS SIGNIFICANT CHANGE IN FACTORS OR  
23 CIRCUMSTANCES RELIED ON IN MAKING THE DECISION;

24 (3) THERE HAS BEEN MATERIAL FAILURE TO COMPLY WITH THE  
25 PROCEDURAL REQUIREMENTS OF THIS ACT; OR

26 [(4) THE DEPARTMENT DETERMINES THAT THERE IS GOOD CAUSE  
27 SHOWN FOR SOME OTHER REASON.

28 IF GOOD CAUSE AS TO ITEMS (1) AND (2) ABOVE IS FOUND BY THE  
29 DEPARTMENT, THE APPLICATION SHALL BE REMANDED FOR CONSIDERATION  
30 WITH RESPECT TO SUCH FACTORS TO THE HEALTH SYSTEMS AGENCY FOR



1 CONSIDERATION OF THE SAME. THE TIME, NOT TO EXCEED 45 DAYS, THAT  
2 THE APPLICATION IS BEFORE THE HEALTH SYSTEMS AGENCY FOR SUCH  
3 CONSIDERATION SHALL NOT BE COUNTED IN DETERMINING THE TIME  
4 WITHIN WHICH THE DEPARTMENT SHALL TAKE ACTION ON THE  
5 APPLICATION.]

6 (4) GOOD CAUSE IS OTHERWISE FOUND TO EXIST.

7 Section 706. Information during review.

8 During the course of review [the health systems agency and]  
9 the department shall upon ~~written~~ request of any person, set <—  
10 forth the status, any findings [then] made in the proceeding and  
11 other appropriate information requested. THE DEPARTMENT MAY <—  
12 REQUIRE SUCH REQUESTS TO BE IN WRITING.

13 Section ~~14~~ 16. Section 707 of the act, amended July 12, 1980 <—  
14 (P.L.655, No.136), is amended to read:

15 Section 707. Criteria for review of applications for  
16 certificates of need or amendments.

17 [(a) An application for a certificate of need shall be  
18 recommended, approved, and issued when the application  
19 substantially meets the requirements listed below; provided that  
20 each decision, except in circumstances which pose a threat to  
21 public health, shall be consistent with the State health plan:

22 (1) The relationship of the application with the  
23 applicable health systems plan and annual implementation plan  
24 has been considered.

25 (2) The services are compatible to the long-range  
26 development plan (if any) of the applicant.

27 (3) There is a need by the population served or to be  
28 served by the services.

29 (4) There is no appropriate, less costly, or more  
30 effective alternative methods of providing the services

1 available.

2 (5) The service or facility is economically feasible,  
3 considering anticipated volume of care, the capability of the  
4 service area to meet reasonable charges for the service or  
5 facility and the availability of financing.

6 (6) The proposed service or facility is financially  
7 feasible both on an intermediate and long-term basis and the  
8 impact on cost of and charges for providing services by the  
9 applicant is appropriate.

10 (7) The proposed service or facility is compatible with  
11 the existing health care system in the area.

12 (8) The service or facility is justified by community  
13 need and within the financial capabilities of the institution  
14 both on an intermediate and long-term basis and will not have  
15 an inappropriate, adverse impact on the overall cost of  
16 providing health services in the area.

17 (9) There are available resources (including health  
18 manpower, management personnel, and funds for capital and  
19 operating needs) to the applicant for the provision of the  
20 services proposed to be provided, and there is no greater  
21 need for alternative uses for such resources for the  
22 provision of other health services. The effect on the  
23 clinical needs of health professional training programs in  
24 the medical service area, the extent to which health  
25 professional schools in the medical service area will have  
26 access to the services for training purposes and the extent  
27 to which the proposed service will be accessible to all  
28 residents of the area to be served by such services have been  
29 considered.

30 (10) The proposed service or facility will have

1 available to it appropriate ancillary and support services  
2 and an appropriate organizational relationship to such  
3 services.

4 (11) The proposed services are consistent with the  
5 special needs and circumstances of those entities which  
6 provide services or resources both within and without the  
7 health service area in which the proposed services are to be  
8 located, including medical and other health professional  
9 schools, multidisciplinary clinics, and specialty centers.

10 (12) The special needs and circumstances of health  
11 maintenance organizations shall be considered to the extent  
12 required by Federal law and regulation now or hereafter  
13 enacted or adopted.

14 (13) The proposed services are not incompatible with any  
15 biomedical or behavioral research projects designed for  
16 national need for which local conditions offer special  
17 advantages.

18 (14) Consideration of the need and availability in the  
19 community for services and facilities for allopathic and  
20 osteopathic physicians and their patients; and the religious  
21 orientation of the facility and the religious needs of the  
22 community to be served. This provision is not intended to  
23 create duplicative systems of care.

24 (15) The factors which affect the effect of competition  
25 on the supply of health services being reviewed with  
26 particular reference to the existence and the capacity of  
27 market conditions in advancing the purposes of quality  
28 assurance, cost containment and responsiveness to consumer  
29 preferences and the existence and capacity of utilization  
30 review programs and other public and private cost control

1 measures to give effect to consumer preferences and to  
2 establish appropriate incentives for capital allocations have  
3 been considered.

4 (16) Improvements or innovations in the financing and  
5 delivery of health services which foster competition and  
6 serve to promote quality assurance, cost effectiveness and  
7 responsiveness to consumer preferences have been given  
8 preference.

9 (17) The efficiency and appropriateness of the use of  
10 existing services and facilities similar to those proposed  
11 has been considered.

12 (18) In the case of existing services for facilities,  
13 the quality of care provided by services or facilities in the  
14 past has been considered.

15 (19) The contribution of the proposed new institutional  
16 health service in meeting the health related needs of members  
17 of medically underserved groups has been considered in  
18 written findings.

19 (20) The special circumstances of applications with  
20 respect to the need for conserving energy have been  
21 considered.

22 (b) If the application is for a proposed service or facility  
23 which includes a construction project, a certificate of need  
24 shall be recommended, approved and issued when the provisions of  
25 subsection (a) are satisfied, and:

26 (1) the costs and methods of proposed construction  
27 including the costs and methods of energy provision are  
28 appropriate; and

29 (2) the impact on the costs of providing health services  
30 by the applicant resulting from the construction is found to

1 be appropriate and the impact on the costs and charges to the  
2 public of providing health services by other persons is found  
3 to be not inappropriate.

4 (c) Whenever new institutional health services for  
5 inpatients are proposed, a finding shall be made in writing by  
6 the reviewing authority:

7 (1) as to the efficiency and appropriateness of the  
8 existing use of the inpatient facilities similar to those  
9 proposed;

10 (2) as to the capital and operating costs, efficiency  
11 and appropriateness of the proposed new service and its  
12 potential impact on patient charges;

13 (3) that less costly alternatives which are more  
14 efficient and more appropriate to such inpatient service are  
15 not available and the development of such alternatives has  
16 been studied and found not practicable;

17 (4) that existing inpatient facilities providing  
18 inpatient services similar to those proposed are being used  
19 in an appropriate and efficient manner;

20 (5) that in the case of new construction, alternatives  
21 to new construction such as modernization or sharing  
22 arrangements have been considered and have been implemented  
23 to the maximum extent practicable;

24 (6) that patients will experience serious problems in  
25 terms of cost, availability, accessibility or such other  
26 problems as are identified by the reviewing agency in  
27 obtaining inpatient care of the type proposed in the absence  
28 of the proposed new service; and

29 (7) that in the case of a proposal for the addition of  
30 beds for the provision of skilled nursing or intermediate

care services, the addition will be consistent with the plans of the agency, if any, that is responsible for the provision and financing of long-term care services.

A certificate of need shall be issued for inpatient services when the provisions of subsections (a) and (b) are satisfied and the findings of this subsection can be made.]

(a) An application for certificate of need shall be considered for approval when THE DEPARTMENT DETERMINES THAT the application substantially meets the requirements listed below:

(1) There is need by the population served or to be served by the proposed service or facility.

(2) The proposed service or facility will provide care consistent with quality standards established by the State health services plan.

(3) The proposed service or facility will meet the standards identified in the State health services plan for access to care by medically underserved groups, including individuals eligible for medical assistance and persons without health insurance.

(b) The department shall issue a certificate of need if the project substantially meets the criteria of subsection (a)(1), (2) and (3) and meets the additional criteria listed below, provided that the project is consistent with the State health services plan UNLESS THE DEPARTMENT CAN DEMONSTRATE:

(1) There is no A more appropriate, less costly or more effective alternative method of providing the proposed services.

(2) The service or facility is NOT financially and economically feasible considering anticipated volume of care and the availability of reasonable financing BASED ON

1 INFORMATION RECEIVED FROM THE APPLICANT AND OTHER SOURCES  
2 DURING THE REVIEW PROCESS.

3 (3) The proposed service or facility will not have an <—  
4 inappropriate, adverse impact on the overall level of health  
5 care expenditures in the area.

6 [(d)] (c) Notwithstanding the provisions of subsections  
7 (a)[, (b) and (c)] and (b), applications for projects described  
8 in subsection [(e)] (d) shall be approved unless the department  
9 finds that the facility or service with respect to such  
10 expenditure as proposed is not needed or that the project is not  
11 consistent with the State health services plan. An application  
12 made under this subsection shall be approved only to the extent  
13 that the department determines it is required to overcome the  
14 conditions described in subsection [(e)] (d).

15 [(e)] (d) Subject to the provisions of subsection [(d)] (c),  
16 subsections (a)[, (b) and (c)] and (b) shall not apply to  
17 capital expenditures required to:

18 (1) [Eliminate] eliminate or prevent imminent safety  
19 hazards as a result of violations of safety codes or  
20 regulations[.];

21 (2) [Comply] comply with State licensure standards[.];  
22 or

23 (3) [Comply] comply with accreditation standards,  
24 compliance with which is required to receive reimbursement or  
25 payments under Title XVIII or XIX of the Federal Social  
26 Security Act.

27 Section ~~15~~ 17. Section 708 of the act is repealed. <—

28 Section ~~16~~ 18. The act is amended by adding a section to <—

29 read:

30 Section 708.1. Monitoring certificate of need; expiration of a

1                   certificate of need.

2       A certificate of need or an amendment to it shall expire two  
3 years from the date issued unless substantially implemented, as  
4 defined by regulation. The department may grant extensions for a  
5 specified time upon request of the applicant and upon a showing  
6 that the applicant has, or is making, a good faith effort to  
7 substantially implement the project. An expired certificate of  
8 need shall be invalid, and no person may proceed to undertake  
9 any activity pursuant to it for which a certificate of need or  
10 amendment is required. The applicant shall report to the  
11 department, on forms prescribed by the department, the status of  
12 the project until such time as the project is licensed or  
13 operational, if no license is required.

14       Section ~~17~~ 19. Section 709 of the act is amended to read:       <—  
15 Section 709. Emergencies.

16       Notwithstanding any other provision of this act, [and  
17 pursuant to an agreement with the United States Department of  
18 Health, Education and Welfare,] in the event of an emergency the  
19 department may suspend the foregoing application process and  
20 permit such steps to be taken as may be required to meet the  
21 emergency including the replacement of equipment or facilities.

22       Section ~~18~~ 20. Sections 711, 802.1, 804, 806, 807, 808, 809,       <—  
23 810, 811 and 812 of the act, amended or added July 12, 1980  
24 (P.L.655, No.136), are amended to read:

25 Section 711. Review of activities.

26       (a) The department [and each health systems agency] shall  
27 prepare and publish not less frequently than annually reports of  
28 reviews conducted under this act, including a statement on the  
29 status of each such review and of reviews completed by [them,  
30 including statements of the finding and] it and statements of



1 the decisions made in the course of such reviews since the last  
2 report. The department [and each health systems agency] shall  
3 also make available to the general public for examination at  
4 reasonable times of the business day all applications reviewed  
5 by [them and all written materials on file at the agency  
6 pertinent to such review.] ~~it. The department shall publish as a~~ <—  
7 ~~statement of policy in the Pennsylvania Code, its procedure for~~  
8 ~~making records available to the public.~~ <—  
9 SUCH REPORTS AND APPLICATIONS SHALL BE CONSIDERED PUBLIC RECORDS.

10 (b) The [department in its] department's report which shall  
11 be submitted to the members of the Health and Welfare Committees  
12 of the Senate and House of Representatives shall contain the  
13 following information [classified by health system areas]:

14 (1) The volume of applications submitted, by project  
15 type, their dollar value, and the numbers and costs  
16 associated with those approved and those not approved.

17 [(2) An estimate of the operating cost impact of the  
18 approved projects.

19 (3) The average time for review, by project type.

20 (4)] (2) The assessment of the extent of competition in <—  
21 specific service sectors that guided decisions.

22 [(5)] (3) A detailed description of projects involving <—  
23 nontraditional or innovative service delivery methods or  
24 organizational arrangements and the decisions made on each of  
25 these projects.† <—

26 ~~(2)~~ (4) The average time for review, by level of review. <—

27 (5) THE FEES COLLECTED FOR REVIEWS AND THE COST OF THE <—  
28 PROGRAM.

29 Section 802.1. Definitions.

30 The following words and phrases when used in this chapter

1 shall have, unless the context clearly indicates otherwise, the  
2 meanings given them in this section:

3 "Ambulatory surgical facility." A facility or portion  
4 thereof not located upon the premises of a hospital which  
5 provides specialty or multispecialty outpatient surgical  
6 treatment. Ambulatory surgical facility does not include  
7 individual or group practice offices of private physicians or  
8 dentists, unless such offices have a distinct part used solely  
9 for outpatient surgical treatment on a regular and organized  
10 basis. For the purposes of this provision, outpatient surgical  
11 treatment means surgical treatment to patients who do not  
12 require hospitalization, but who require constant medical  
13 supervision following the surgical procedure performed.

14 "Birth center." A facility not part of a hospital which  
15 provides maternity care to childbearing families not requiring  
16 hospitalization. A birth center provides a home-like atmosphere  
17 for maternity care, including prenatal labor delivery and  
18 postpartum care related to medically uncomplicated pregnancies.

19 "Health care facility." [A general, tuberculosis,] For  
20 purposes of Chapter 8, a health care facility includes, but is  
21 not limited to, a general, chronic disease or other type of  
22 hospital, [a skilled nursing facility,] a home health care  
23 agency, [an intermediate care] a long-term care nursing  
24 facility, cancer treatment centers using radiation therapy on an  
25 ambulatory basis, an ambulatory surgical facility, a birth  
26 center regardless of whether such health care facility is  
27 operated for profit, nonprofit or by an agency of the  
28 Commonwealth or local government. The department shall have the  
29 authority to license other health care facilities as may be  
30 necessary due to emergence of new modes of health care. When the

1 department so finds, it shall publish its intention to license a  
2 particular type of health care facility in the Pennsylvania  
3 Bulletin IN ACCORDANCE WITH THE ACT OF JUNE 25, 1982 (P.L.633, <—  
4 NO.181), KNOWN AS THE "REGULATORY REVIEW ACT." The term health  
5 care facility shall not include an office used primarily for the  
6 private practice of [medicine, osteopathy, optometry,  
7 chiropractic, podiatry or dentistry,] a health care  
8 practitioner, nor a program which renders treatment or care for <—  
9 drug or alcohol abuse or dependence unless located within a  
10 health facility, nor a facility providing treatment solely on  
11 the basis of prayer or spiritual means. [A mental retardation  
12 facility is not a health care facility except to the extent that  
13 it provides skilled nursing care.] The term health care facility  
14 shall not apply to a facility which is conducted by a religious  
15 organization for the purpose of providing health care services  
16 exclusively to clergymen or other persons in a religious  
17 profession who are members of a religious denomination.

18 ["Health care provider" or "provider." An individual, a  
19 trust or estate, a partnership, a corporation (including  
20 associations, joint stock companies and insurance companies),  
21 the Commonwealth, or a political subdivision or instrumentality  
22 (including a municipal corporation or authority) thereof, that  
23 operates a health care facility.]

24 "Home health care agency." An organization or part thereof  
25 staffed and equipped to provide nursing and at least one  
26 therapeutic service to persons who are disabled, aged, injured  
27 or sick [persons] in their place of residence. The agency may  
28 also provide other health-related services to protect and  
29 maintain persons in their own home.

30 "Hospital." An institution having an organized medical staff

1 [which is primarily engaged in] established for the purpose of  
2 providing to inpatients, by or under the supervision of  
3 physicians, diagnostic and therapeutic services for the care of  
4 persons who are injured, disabled, pregnant, diseased [or], sick  
5 or mentally ill [persons], or rehabilitation services for the  
6 rehabilitation of persons who are injured, disabled, pregnant,  
7 diseased [or], sick or mentally ill [persons]. The term includes  
8 facilities for the diagnosis and treatment of disorders within  
9 the scope of specific medical specialties, but not facilities  
10 caring exclusively for the mentally ill.

11 ["Intermediate care facility." An institution which provides  
12 on a regular basis health-related care and services to resident  
13 individuals who do not require the degree of care and treatment  
14 which a hospital or skilled nursing facility is designed to  
15 provide, but who because of their mental or physical condition  
16 require health-related care and services above the level of room  
17 and board. Intermediate care facilities exclusively for the  
18 mentally retarded commonly called ICF/MR shall not be considered  
19 intermediate care facilities for the purpose of this act and  
20 shall be licensed by the Department of Public Welfare.

21 "Skilled nursing facility." Any facility or part of a  
22 facility in which professionally supervised nursing care and  
23 related medical and other health services are provided for a  
24 period exceeding 24 hours for two or more individuals who are  
25 not in need of hospitalization and are not relatives of the  
26 nursing home administrator, but who because of age, illness,  
27 disease, injury convalescence or physical or mental infirmity  
28 need such care.]

29 "Long-term care nursing facility." A facility that provides  
30 either skilled or intermediate nursing care or both levels of

1 care to two or more patients, who are unrelated to the licensee,  
2 for a period exceeding 24 hours. Intermediate care facilities  
3 exclusively for the mentally retarded commonly called ICF/MR  
4 shall not be considered long-term care nursing facilities for  
5 the purpose of this act and shall be licensed by the Department  
6 of Public Welfare.

7 Section 804. Administration.

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

12 (b) Prevention of duplication.--In carrying out the  
13 provisions of this chapter and other statutes of this  
14 Commonwealth relating to health care facilities, the department  
15 and other departments and agencies of the State and local  
16 governments shall make every reasonable effort to prevent  
17 duplication of inspections and examinations. [Within 12 months  
18 of the enactment date of this chapter, the department shall  
19 establish subject to the approval of the Governor a method of  
20 scheduling inspections whereby inspections of health care  
21 facilities by all departments and agencies of the Commonwealth  
22 shall be coordinated insofar as reasonably possible. Within 24  
23 months of the enactment date of this chapter, the department  
24 shall make the dates of expiration of Medicaid and Medicare  
25 certification coincide with licensure and shall subsequently]  
26 The department may make the dates of licensure expiration  
27 coincide with medical assistance and Medicare certification or  
28 applicable nationally recognized accrediting agencies  
29 accreditation and shall combine these surveys and inspections  
30 where practical.

1 (c) Health care innovation.--The department shall administer  
2 this chapter so as to encourage innovation and experimentation  
3 in health care and health care facilities consistent with the  
4 provisions of this chapter and shall encourage contributions of  
5 private funds and services to health care facilities.

6 (d) Reports.--The department shall report annually to the  
7 General Assembly on the effectiveness of the licensing and  
8 enforcement of this chapter. Such report shall include  
9 appropriate data according to nature of facility relating to  
10 provisional licenses issued, nature of violations of  
11 regulations, and number of facilities against which sanctions  
12 had to be taken, [and the number of facilities with pending  
13 serious violations. The report shall also include  
14 recommendations for statutory and administrative changes which  
15 the department deems desirable to enhance the quality of care  
16 provided by health care facilities.]

17 Section 806. Licensure.

18 (a) License required.--No person shall maintain or operate a  
19 health care facility without first having obtained a license  
20 therefor issued by the department. No health care facility can  
21 be a provider of medical assistance services unless it is  
22 licensed by the department and certified as a medical assistance  
23 provider.

24 (b) Development of regulations.--In developing rules and  
25 regulations for licensure the department shall take into  
26 consideration [conditions for participation in government and]  
27 Federal certification standards and the standards of other third  
28 party [payments] payors for health care services and [the  
29 standards of the Joint Commission on Accreditation of Hospitals,  
30 the Committee on Hospital Accreditation of the American

1 Osteopathic Association and such other accrediting bodies] such  
2 nationally recognized accrediting agencies as the department may  
3 find appropriate.

4 (c) Fire and emergency standards.--Notwithstanding any other  
5 provision of law other than standards required [by the Federal  
6 Government as a condition of participation] for Federal  
7 certification by that type of health care facility in the  
8 Medicare or Medicaid program, no health care facility shall be  
9 required to satisfy any regulation relating to fire or similar  
10 emergency circumstance more stringent than those required of  
11 hospitals by the Joint Commission on Accreditation of  
12 [Hospitals] Health Organizations OR SUCH NATIONALLY RECOGNIZED <—  
13 ACCREDITING AGENCIES AS THE DEPARTMENT MAY FIND APPROPRIATE and  
14 the department shall adopt and enforce the appropriate  
15 standards.

16 (d) Home health care agency regulations.--In developing  
17 rules and regulations for licensure of home health care agencies  
18 the department shall take into consideration the standards of  
19 [the National Association of Home Health Agencies, National  
20 League of Nursing, Joint Commission on the Accreditation of  
21 Hospitals and National Council for Homemakers, Home Health Aides  
22 and other accrediting bodies] nationally recognized accrediting  
23 agencies as the department may find appropriate. Home health  
24 care agencies certified as providers by the department to the  
25 Federal Government for purposes of the Medicare program shall be  
26 deemed to comply with and satisfy the department's regulations  
27 governing home health care agencies.

28 (e) Public disclosure.--[Rules and regulations of the  
29 department shall require:

30 (1) The licensee to provide to the appropriate health

1 systems agency information that the health systems agency is  
2 required to collect pursuant to section 1513(b) of the  
3 Federal National Health Planning and Resources Development  
4 Act.

5 (2) The licensee to make available to the public upon  
6 request the licensee's current daily cost reimbursement under  
7 Blue Cross, medical assistance and Medicare as well as the  
8 average daily charge to other insured and noninsured private  
9 pay patients.

10 (3) Disclosure of the persons owning 5% or more of the  
11 licensee as well as the licensee's officers and members of  
12 the board of directors.] The department shall require  
13 disclosure of the persons owning 5% or more of the health  
14 care facility as well as the health care facility's officers  
15 and members of the board of directors.

16 (F) AMBULATORY SURGICAL FACILITIES STANDARDS.--WITHIN ONE <—  
17 YEAR OF THE EFFECTIVE DATE OF THIS ACT, TO THE EXTENT POSSIBLE,  
18 THE DEPARTMENT SHALL PUBLISH IN THE PENNSYLVANIA BULLETIN  
19 PROPOSED REGULATIONS ESTABLISHING REVISED STANDARDS FOR  
20 LICENSURE OF AMBULATORY SURGICAL FACILITIES. SUCH STANDARDS  
21 SHALL PROVIDE FOR SEPARATE LICENSURE CRITERIA FOR OFFICE-BASED  
22 SURGICAL FACILITIES AND FOR COMPREHENSIVE FREESTANDING  
23 AMBULATORY SURGICAL FACILITIES, INCLUDING, BUT NOT LIMITED TO:

24 (1) FIRE AND SAFETY STANDARDS;

25 (2) PERSONNEL AND EQUIPMENT REQUIREMENTS; AND

26 (3) QUALITY ASSURANCE PROCEDURES.

27 THE PURPOSE OF SUCH CRITERIA SHALL BE TO ASSURE QUALITY CARE  
28 DELIVERY IN SAID FACILITIES. UNTIL SUCH TIME THE REVISED  
29 REGULATIONS ARE ADOPTED, THE EXISTING RULES AND REGULATIONS  
30 GOVERNING THE LICENSURE OF AMBULATORY SURGICAL FACILITIES SHALL



1 APPLY.

2 Section 807. Application for license.

3 (a) Submission to department.--Any person desiring to secure  
4 a license to maintain and operate a health care facility shall  
5 submit an application therefor to the department upon forms  
6 prepared and furnished by it, containing such information as the  
7 department considers necessary to determine that the health care  
8 provider and the health care facility meet the requirements of  
9 licensure under the provisions of this act and the rules and  
10 regulations relating to licensure. Application for renewal of a  
11 license shall be made upon forms prepared and furnished by the  
12 department in accordance with the rules and regulations of the  
13 department.

14 (b) Fees.--Application for a license or for renewal of a  
15 license shall be accompanied by [a fee of \$50 plus \$2 for each  
16 inpatient bed in excess of 75 beds.] the following fees:

17 (1) Regular or Special License:

18 Home Health Agency \$250.00

19 Ambulatory Surgical Facility 250.00

20 Birth Center 70.00

21 Long-Term Care Nursing Facility 250.00

22 Plus Per Each Inpatient Bed 4.00 <—

23 PLUS PER EACH LONG TERM CARE BED IN EXCESS OF <—

24 75 BEDS 2.00

25 Hospital

26 Every Two Years 500.00

27 Plus Per Each Inpatient Bed

28 Every Two Years 4.00

29 Other Health Care Facility \$100.00

30 (2) Provisional License All Facilities:

1	<u>Provisional I</u>	<u>\$400.00</u>
2	<u>Plus Per Each Inpatient Bed</u>	<u>4.00</u>
3	<u>Provisional II</u>	<u>600.00</u>
4	<u>Plus Per Each Inpatient Bed</u>	<u>6.00</u>
5	<u>Provisional III</u>	<u>800.00</u>
6	<u>Plus Per Each Inpatient Bed</u>	<u>8.00</u>
7	<u>Provisional IV</u>	<u>1,000.00</u>
8	<u>Plus Per Each Inpatient Bed</u>	<u>10.00</u>

9     (c) Bond.--The department, by regulations, may require new  
10 applicants for a license to post a bond.

11 Section 808. Issuance of license.

12     (a) Standards.--The department shall issue a license to a  
13 health care provider when it is satisfied that the following  
14 standards have been met:

15         (1) that the health care provider is a responsible  
16 person;

17         (2) that the place to be used as a health care facility  
18 is adequately constructed, equipped, maintained and operated  
19 to safely and efficiently render the services offered;

20         (3) that the health care facility provides safe and  
21 efficient services which are adequate for the care, treatment  
22 and comfort of the patients or residents of such facility;

23         (4) that there is substantial compliance with the rules  
24 and regulations adopted by the department pursuant to this  
25 act; and

26         (5) that a certificate of need has been issued if one is  
27 necessary.

28     (b) Separate and limited licenses.--Separate licenses shall  
29 not be required for different services within a single health  
30 care facility except that home health care or [skilled or

1 intermediate] long-term nursing care will require separate  
2 licenses. [A single facility providing both skilled and  
3 intermediate care shall need only one separate license to cover  
4 those services.] A limited license, excluding from its terms a  
5 particular service or portion of a health care facility, may be  
6 issued under the provisions of this act.

7 (c) [Modification of license] Addition of services.--When  
8 the certificate of need for a facility is amended as to services  
9 which can be offered, the department shall issue [a modified] an  
10 appropriate license for those services upon demonstration of  
11 compliance with licensure requirements.

12 Section 809. Term and content of license.

13 (a) Contents.--All licenses issued by the department under  
14 this chapter shall:

15 (1) [with the exception of provisional licenses for  
16 health care facilities other than hospitals expire one year  
17 from the date on which issued and for hospitals expire two  
18 years from the date on which issued unless renewed;] be  
19 issued for a specified length of time as follows, including  
20 the provision of section 804(b):

21 (i) all health care facilities, other than  
22 hospitals, for a period of one year, and for hospitals  
23 for a period of two years with the expiration date to be  
24 the last day of the month in which license is issued;

25 (ii) provisional licenses for the length of time to  
26 be determined by the department upon issuance of the  
27 provisional license;

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

29 (3) not be transferable except upon prior written  
30 approval of the department;

1           (4) be issued only to the health care provider and for  
2       the health care facility or facilities named in the  
3       application;

4           (5) specify the maximum number of beds, if any, to be  
5       used for the care of patients in the facility at any one  
6       time; and

7           (6) specify [whether the license has been granted to the  
8       health care facility as a whole or, if not, shall specify  
9       those portions of or services offered by the facility which  
10      have been excluded from the terms of the license] limitations  
11      which have been placed on the facility.

12       (b) Posting.--The license shall at all times be posted in a  
13      conspicuous place on the provider's premises.

14       (c) Visitation.--Whenever practicable, the department shall  
15      make its visitations and other reviews necessary for licensure  
16      contemporaneously with similar visitations and other reviews  
17      necessary for provider certification in the Medicare and medical  
18      assistance programs and the department shall endeavor to avoid  
19      duplication of effort by the department and providers in the  
20      certificate of need, medical assistance and Medicare provider  
21      certification and licensure procedures. This shall not preclude  
22      the department from unannounced visits.

23       (d) Use of beds in excess of maximum.--Except in case of  
24      extreme emergency, no license shall permit the use of beds for  
25      inpatient use in the licensed facility in excess of the maximum  
26      number set forth in the license without first obtaining written  
27      permission from the department: Provided, That during the period  
28      of a license, a health care facility may without the prior  
29      approval of the department increase the total number of beds by  
30      not more than ten beds or 10% of the total bed capacity,

1   whichever is less.

2   Section 810.   Reliance on accrediting agencies and Federal  
3                               Government.

4       (a)   Reports of other agencies.--After a provider has been  
5   licensed or approved to operate a health care facility for at  
6   least ~~[three]~~ TWO years under this or prior acts, none of which   <—  
7   has been pursuant to a provisional license, the department may  
8   rely on the reports of the Federal Government or nationally  
9   recognized accrediting agencies [if the government or agency  
10  standards are substantially] to the extent those standards are  
11 determined by the department to be similar to regulations of the  
12 department and if the provider agrees to:

13           (1)   direct the agency or government to provide a copy of  
14   its findings to the department; and

15           (2)   permit the department to inspect those areas or  
16   programs of the health care facility not covered by the  
17   agency or government inspection or where the agency or  
18   government report discloses more than a minimal violation of  
19   department regulations.

20       (b)   Coordination of inspections.--[All State agencies and  
21  all divisions or units of such agencies which conduct regular  
22  on-site inspections of health care facilities shall, within 120  
23  days of the enactment of this amendatory act, advise the  
24  department of the type of inspections they conduct, the time  
25  required to inspect and the frequency of such inspections. In  
26  accordance with the plan approved by the Governor, the] The  
27  department shall coordinate, to the extent possible, inspections  
28  by State agencies other than the department [and shall advise  
29  other agencies which inspections shall be made only after  
30  written notice to the department and may require other State

1 agencies to make their inspections simultaneously with the  
2 inspection by the department]. Nothing herein shall be  
3 interpreted to preclude the department from any follow-up  
4 inspection of a health care facility in which deficiencies were  
5 found in the original inspections or more frequent inspections  
6 of health care facilities that received provisional licenses.

7 (c) Right of inspection preserved.--This section shall not  
8 be construed to be a limitation on the department's right of  
9 inspection otherwise permitted by section 813.

10 Section 811. Reasons for revocation or nonrenewal of license.

11 The department may refuse to renew a license or may suspend  
12 or revoke or limit a license for all or any portion of a health  
13 care facility, or for any particular service offered by a  
14 facility, or may suspend admissions for any of the following  
15 reasons:

16 (1) A serious violation of provisions of this act or of  
17 the regulations for licensure issued pursuant to this act or  
18 of Federal laws and regulations. For the purpose of this  
19 paragraph, a serious violation is one which poses a  
20 significant threat to the health [of patients] or safety of  
21 patients or residents.

22 (2) Failure of a licensee to submit a plan with a  
23 reasonable timetable to correct deficiencies.

24 (3) The existence of a cyclical pattern of deficiencies  
25 over a period of two or more years.

26 (4) Failure, by the holder of a provisional license, to  
27 correct deficiencies in accordance with a timetable submitted  
28 by the applicant and agreed upon by the department.

29 (5) Fraud or deceit in obtaining or attempting to obtain  
30 a license.

1           (6) Lending, borrowing or using the license of another,  
2           or in any way knowingly aiding or abetting the improper  
3           granting of a license.

4           (7) Incompetence, negligence or misconduct in operating  
5           the health care facility or in providing services to  
6           patients.

7           (8) Mistreating or abusing individuals cared for by the  
8           health care facility.

9           (9) Serious violation of the laws relating to medical  
10          assistance or Medicare reimbursement.

11          (10) Serious violation of other applicable Federal or  
12          State laws.

13 Section 812. Provisional license.

14        [When there are numerous deficiencies or a serious specific  
15        deficiency in compliance with applicable statutes, ordinances or  
16        regulations, and when the department finds:

17           (1) the applicant is taking appropriate steps to correct  
18           the deficiencies in accordance with a timetable submitted by  
19           the applicant and agreed upon by the department; and

20           (2) there is no cyclical pattern of deficiencies over a  
21           period of two or more years, then the department may issue a  
22           provisional license for a specified period of not more than  
23           six months which may be renewed three times at the discretion  
24           of the department.

25 Upon overall compliance, a regular license shall be issued.]

26        When there are numerous deficiencies or a serious specific  
27        deficiency in compliance with applicable statutes, ordinances or  
28        regulations, and when the department finds the applicant is  
29        taking appropriate steps to correct the deficiencies in  
30        accordance with a timetable submitted by the applicant and

1 agreed upon by the department and there is no cyclical pattern  
2 of deficiencies over a period of two or more years, then the  
3 department may issue a provisional license for a specified  
4 period of not more than six months which may be renewed three  
5 times at the discretion of the department.

6 Upon ~~overall~~ SUBSTANTIAL compliance, including payment of any <—  
7 finances levied pursuant to section 817(d), a regular license shall  
8 be issued.

9 Section ~~19~~ 21. Section 814 of the act, added July 12, 1980 <—  
10 (P.L.655, No.136) and repealed in part December 20, 1982  
11 (P.L.1409, No.326), is amended to read:

12 Section 814. Provider violations.

13 (a) Notice of violations.--Whenever the department shall  
14 upon inspection, investigation or complaint find a violation of  
15 this chapter or regulations adopted by the department pursuant  
16 to this chapter or pursuant to Federal law, it shall give  
17 written notice thereof specifying the violation or violations  
18 found to the health care provider. Such notice shall require the  
19 health care provider to take action or to submit a plan of  
20 correction which shall bring the health care facility into  
21 compliance with applicable law or regulation within a specified  
22 time. The plan of correction must be submitted within 30 days of  
23 receipt of the written notice or sooner if directed to do so by  
24 the department. The department may ban admissions or revoke a  
25 license before a plan of correction is submitted whenever  
26 deficiencies pose a significant threat to the health or safety  
27 of patients or residents.

28 (b) Appointment of [master] temporary management.--When the  
29 health care provider has failed to bring the facility into  
30 compliance within the time [so] specified by the department, or



1 when the facility has demonstrated [a pattern of episodes of  
2 noncompliance alternating with compliance over a period of at  
3 least two years] that it is unwilling or unable to achieve  
4 compliance, such as would convince a reasonable person that any  
5 correction of violations would be unlikely to be maintained, the  
6 department may petition the Commonwealth Court or the Court of  
7 Common Pleas of the county in which the facility is located to  
8 appoint [a master] temporary management designated as qualified  
9 by the department to assume operation of the facility at the  
10 facility's expense [for a specified period of time or until all  
11 violations are corrected and all applicable laws and regulations  
12 are complied with, or] to assure the health and safety of the  
13 facility's patients or residents until improvements are made to  
14 bring the facility into compliance with the laws and regulations  
15 for licensure or until there is an orderly closure of the  
16 facility. In the alternative, the department in its discretion  
17 may proceed in accordance with this chapter.

18 Section ~~20~~ 22. Sections 817 and 820 of the act, added July <—  
19 12, 1980 (P.L.655, No.136), are amended to read:

20 Section 817. Actions against violations of law, rules and  
21 regulations.

22 (a) Actions brought by department.--Whenever any person,  
23 regardless of whether such person is a licensee, has violated  
24 any of the provisions of this chapter or the regulations issued  
25 pursuant thereto, the department may maintain an action in the  
26 name of the Commonwealth for an injunction or other process  
27 restraining or prohibiting such person from engaging in such  
28 activity.

29 (b) Civil penalty.--Any person, regardless of whether such  
30 person is a licensee, who has committed a violation of any of

1 the provisions of this chapter or of any rule or regulation  
2 issued pursuant thereto, including failure to correct a serious  
3 licensure violation (as defined by regulation) within the time  
4 specified in a deficiency citation, may be assessed a civil  
5 penalty by an order of the department of up to [\$100 for each  
6 day that such violation continues.] \$500 for each deficiency for  
7 each day that each deficiency continues. Civil penalties shall  
8 be collected from the date the facility receives notice of the  
9 violation until the department confirms correction of such  
10 violation.

11 (c) Funds collected as a result of the assessment of a civil  
12 penalty.--When all other sources of funding have been exhausted,  
13 the department shall apply funds collected as a result of the  
14 assessment of a civil penalty to the protection of the health or  
15 property of patients or residents of the health care facility.  
16 Funds may be utilized to:

17 (1) Provide payment to temporary management.

18 (2) Maintain the operation of the health care facility  
19 pending correction of deficiencies or closure.

20 (3) In the case of a long-term care nursing facility,  
21 relocate residents to other licensed health care facilities.

22 (4) In the case of a long-term care nursing facility,  
23 reimburse residents for ~~personal funds lost.~~ MISAPPROPRIATED <—  
24 PERSONAL NEEDS ALLOWANCE.

25 (d) Facility closure for threat to health or safety.--  
26 Whenever the department determines that deficiencies pose an  
27 immediate and serious threat to the health or safety of the  
28 patients or residents of the health care facility, the  
29 department may direct the closure of the facility and the  
30 transfer of patients or residents to other licensed health care

1 facilities.

2 Section 820. Existing rules and regulations.

3 (a) Continuation of rules and regulations.--Existing rules  
4 and regulations applicable to health care facilities not clearly  
5 inconsistent with the provisions of this chapter, shall remain  
6 in effect until replaced, revised or amended. [In developing  
7 regulations, the department shall give priority to developing  
8 minimum standards for home health agencies and other health care  
9 facilities not previously subject to regulation.] Sections 103.2  
10 and 103.6 of Title 28 of the Pennsylvania Code are repealed.

11 (b) Expiration of licenses.--All health care providers  
12 licensed[, approved or certified] on the effective date of this  
13 chapter to establish, maintain or operate a health care facility  
14 shall be licensed for the period remaining on the license[,  
15 certification or approval. If a health care facility has a  
16 license, approval or equivalent certification without an  
17 expiration date, it shall be deemed for the purposes of this  
18 section to expire one year after its date of issuance]. At the  
19 expiration of the existing license [certification or approval],  
20 the health care facility shall be subject to licensure pursuant  
21 to this chapter.

22 Section ~~21~~ 23. The act is amended by adding sections to  
23 read:

24 Section 902.1. Fees for review of certificate of need  
25 applications.

26 (a) The department shall charge a fee of \$150 for each  
27 letter of intent filed. The letter of intent fee shall be  
28 deducted from the total application fee required under  
29 subsection (b) if an application is submitted on the project  
30 proposed in the letter of intent.

1     (b) For each application the department shall charge a fee,  
2     payable on submission of an application. The fee shall not be  
3     less than \$500 plus up to \$3 per \$1,000 of proposed capital  
4     expenditure and shall not be more than \$20,000.

5     (c) The department shall publish a fee schedule in the  
6     Pennsylvania Bulletin which shall explain the procedure for  
7     filing fees.

8     (d) All fees payable under this section are due upon the  
9     date of filing a letter of intent or application. If a person  
10    fails to file the appropriate fee, all time frames required of  
11    the department under this act, with respect to review of a  
12    letter of intent or application, are suspended until the  
13    applicable fee is paid in full.

14    Section 904.1. Sunset.

15    The authority, obligations and duties arising under Chapter 7  
16    of this act and all other provisions of this act pertaining to  
17    certificates of need shall terminate ~~five~~ FOUR years after the     <—  
18    effective date of this section. TWELVE MONTHS PRIOR TO THIS     <—  
19    EXPIRATION, THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
20    COMMENCE A REVIEW OF THE IMPACT OF THE CERTIFICATE OF NEED  
21    PROGRAM ON QUALITY, ACCESS AND COST OF HEALTH CARE SERVICES  
22    REVIEWABLE UNDER THIS ACT.

23    SECTION 904.2. SEVERABILITY.

24    THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF  
25    THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS  
26    HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS  
27    OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT  
28    THE INVALID PROVISION OR APPLICATION.

29    Section ~~22~~ 24. Any cancer treatment center required to be     <—  
30    licensed pursuant to the provisions of this act shall obtain the

1 required license within two years of the effective date of this  
2 act.

3 Section ~~23~~ 25. (a) Articles IX and X of the act of June 13, <—  
4 1967 (P.L.31, No.21), known as the Public Welfare Code, are  
5 repealed insofar as they relate to health care facilities as  
6 defined in Chapter 8.

7 (b) All other acts and parts of acts are repealed insofar as  
8 they are inconsistent with this act.

9 Section ~~24~~ 26. This act shall take effect ~~in 60 days~~ <—  
10 IMMEDIATELY. <—