

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2105 Session of
1991

INTRODUCED BY VEON, DeWEESE, FREEMAN, OLASZ, McNALLY, MELIO,
COLAIZZO, FAJT, TRELLO, GIGLIOTTI, KOSINSKI, BELFANTI,
LAUGHLIN AND MIHALICH, NOVEMBER 12, 1991

REFERRED TO COMMITTEE ON LABOR RELATIONS, NOVEMBER 12, 1991

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," adding a definition of "permanent
10 replacement"; further providing for the revocation or
11 nonrenewal of licenses; providing for appointment of masters;
12 and imposing a penalty.

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

15 Section 1. Section 802.1 of the act of July 19, 1979
16 (P.L.130, No.48), known as the Health Care Facilities Act, is
17 amended by adding a definition to read:

18 Section 802.1. Definitions.

19 The following words and phrases when used in this chapter
20 shall have, unless the context clearly indicates otherwise, the
21 meanings given them in this section:

22 * * *

1 "Permanent replacement." An individual, other than a
2 continuously employed individual in a management or executive
3 position, who offers himself to permanently replace an employee
4 involved in a labor dispute or an individual recruited or hired
5 by a health care facility to permanently replace an employee
6 involved in a labor dispute.

7 * * *

8 Section 2. The act is amended by adding a section to read:
9 Section 811.1. Automatic revocation or nonrenewal of license
10 for hiring permanent replacements.

11 (a) Revocation.--The department shall refuse to renew a
12 license or shall revoke or limit a license for all or any
13 portion of a health care facility, or for any particular service
14 offered by a facility, if the health care facility hires,
15 employs, recruits or uses permanent replacements during a legal
16 strike when employees are involved in a collective bargaining
17 dispute.

18 (b) Appointment of master.--When a health care facility
19 violates this section, the department shall appoint a qualified
20 master to assume operation of the facility and provide proper
21 care for patients. The master shall assume all accounting,
22 administrative and operational duties during the labor dispute,
23 at the owner's expense, until the labor dispute has been settled
24 through collective bargaining. During the time period that the
25 master assumes the duties established in this section, he shall
26 audit the records of the health care facility and determine if
27 temporary replacement employee costs are less than those of
28 employees involved in the labor dispute. If temporary
29 replacement worker costs are less than the costs of employees
30 involved in the labor dispute, State funding, assistance or

1 reimbursement money provided to the health care facility shall
2 be reduced accordingly. All reduction and adjustments to State
3 funding and reimbursements, as provided by this section, shall
4 be made in accordance with accounting principles established by
5 the department.

6 (c) Additional penalty.--Any person, regardless of whether
7 that person is a licensee, whose license has been revoked or has
8 not been renewed as provided in this section, shall be assessed
9 a civil penalty by an order of the department of not more than
10 \$100 for each employee permanently replaced for each day that
11 each employee continues to be permanently replaced.

12 Section 3. Within 90 days of the effective date of this act,
13 the Department of Health shall adopt regulations and standards
14 necessary to carry out the provisions of this act.

15 Section 4. This act shall take effect immediately.