

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1626 Session of  
2001

INTRODUCED BY SCHULER, PISTELLA, ZIMMERMAN, SATHER, BISHOP,  
ARMSTRONG, SAMUELSON, WATSON, C. WILLIAMS, B. SMITH, GRUCELA,  
PALLONE AND YUDICHAK, MAY 21, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 15, 2001

## 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," further providing for  
10 definitions; and providing for licensure of home care AND FOR <—  
11 REPORT TO GENERAL ASSEMBLY.

12 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

13 THE INTENT OF THIS ACT IS TO LICENSE HOME CARE AGENCIES IN  
14 ORDER TO PROVIDE FOR CONSUMER PROTECTION BY ESTABLISHING  
15 OVERSIGHT, BY REQUIRING CRIMINAL BACKGROUND CHECKS FOR  
16 INDIVIDUALS REFERRED BY A HOME CARE AGENCY TO PROVIDE CARE, AND  
17 BY ENSURING THE PHYSICAL HEALTH AND COMPETENCY OF INDIVIDUALS  
18 REFERRED BY A HOME CARE AGENCY TO PROVIDE CARE.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. The definitions of "health care facility" and

1 "home health care agency" in section 802.1 of the act of July  
2 19, 1979 (P.L.130, No.48), known as the Health Care Facilities  
3 Act, amended December 18, 1992 (P.L.1602, No.179) and October  
4 16, 1998 (P.L.777, No.95), are amended and the section is  
5 amended by adding definitions to read:

6 Section 802.1. Definitions.

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

10 "Activities of daily living." This term includes services  
11 furnished to a person by AN INDIVIDUAL REFERRED FROM a home care <—  
12 agency in the person's place of residence or other independent  
13 living environment for compensation and which provide assistance  
14 to the individual with home management activities, respite care,  
15 companionship services or with personal care which includes, but  
16 is not limited to, assistance with self-administered  
17 medications, feeding, ORAL, SKIN AND MOUTH CARE, SHAVING, <—  
18 assistance with ambulation, bathing, hair care and grooming,  
19 dressing, toileting and transfer activities. THE TERM ALSO <—  
20 INCLUDES INSTRUMENTAL ACTIVITIES OF DAILY LIVING. The term does  
21 not include services provided by a religious organization for  
22 the purpose of providing services exclusively to clergymen or  
23 other persons in a religious profession who are members of a  
24 religious denomination.

25 \* \* \*

26 "Health care facility." For purposes of Chapter 8, a health  
27 care facility includes, but is not limited to, a general,  
28 chronic disease or other type of hospital, a home health care  
29 agency, a home care agency, a hospice, a long-term care nursing  
30 facility, cancer treatment centers using radiation therapy on an

1 ambulatory basis, an ambulatory surgical facility, a birth  
2 center regardless of whether such health care facility is  
3 operated for profit, nonprofit or by an agency of the  
4 Commonwealth or local government. The department shall have the  
5 authority to license other health care facilities as may be  
6 necessary due to emergence of new modes of health care. When the  
7 department so finds, it shall publish its intention to license a  
8 particular type of health care facility in the Pennsylvania  
9 Bulletin in accordance with the act of June 25, 1982 (P.L.633,  
10 No.181), known as the "Regulatory Review Act." The term health  
11 care facility shall not include an office used primarily for the  
12 private practice of a health care practitioner, nor a program  
13 which renders treatment or care for drug or alcohol abuse or  
14 dependence unless located within a health facility, nor a  
15 facility providing treatment solely on the basis of prayer or  
16 spiritual means. The term health care facility shall not apply  
17 to a facility which is conducted by a religious organization for  
18 the purpose of providing health care services exclusively to  
19 clergymen or other persons in a religious profession who are  
20 members of a religious denomination.

21 ~~"Home care agency." An organization or part thereof,~~ <—  
22 ~~exclusive of a home health care agency, that supplies, arranges~~  
23 ~~or refers personnel to provide care requiring the services of a~~  
24 ~~professional for skilled care or a paraprofessional for~~  
25 ~~activities of daily living on an hourly, shift or continual~~  
26 ~~basis to persons requiring ongoing medical treatment or~~  
27 ~~assessment or are disabled, aged, injured or sick in their place~~  
28 ~~of residence or other independent living environment for which~~  
29 ~~the organization receives a fee, consideration or compensation~~  
30 ~~of any kind. The term includes, but is not limited to, a private~~

~~duty home care provider, homemaker, companion, personal care aide, home health care aide, skilled care provider, registry service, intravenous therapy provider, in home dialysis provider and any of these that are operated by an agency of State or local government. The term does not include a durable medical equipment provider, volunteer provider or individual who provides caregiving services without employment, a contract or other business relationships with a home health care agency, group or individual.~~

"HOME CARE AGENCY." AN ORGANIZATION OR PART THEREOF, EXCLUSIVE OF A HOME HEALTH CARE AGENCY, THAT SUPPLIES, ARRANGES, SCHEDULES OR REFERS INDIVIDUALS TO PROVIDE ACTIVITIES OF DAILY LIVING OR INSTRUMENTAL ACTIVITIES OF DAILY LIVING ON AN HOURLY, SHIFT OR CONTINUAL BASIS TO ANY PERSON IN THE PERSON'S PLACE OF RESIDENCE OR OTHER INDEPENDENT LIVING ENVIRONMENT FOR WHICH THE ORGANIZATION RECEIVES A FEE, CONSIDERATION OR COMPENSATION OF ANY KIND. THE TERM SHALL NOT INCLUDE DURABLE MEDICAL EQUIPMENT PROVIDERS OR VOLUNTEER PROVIDERS.

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

\* \* \*

"INSPECTION." AN EXAMINATION BY THE DEPARTMENT OR ITS REPRESENTATIVES, INCLUDING INTERVIEWS WITH THE OFFICE STAFF, CLIENTS, INDIVIDUALS PROVIDING CARE AND REVIEW OF DOCUMENTS

1 PERTINENT TO INITIAL AND CONTINUED LICENSURE SO THAT THE  
2 DEPARTMENT MAY DETERMINE WHETHER A HOME CARE AGENCY IS OPERATING  
3 IN COMPLIANCE WITH LICENSURE REQUIREMENTS.

4 "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" OR "IADL." THIS  
5 TERM INCLUDES, BUT IS NOT LIMITED TO, MEAL PREPARATION, SHOPPING  
6 AND ERRANDS, TELEPHONE USE, LIGHT HOUSEWORK, LAUNDRY AND  
7 TRANSPORTATION.

8 \* \* \*

9 Section 2. Section 806 of the act is amended by adding a  
10 subsection to read:

11 Section 806. Licensure.

12 \* \* \*

13 ~~(d.1) Home care agency regulations. In developing rules and~~ <—  
14 ~~regulations for licensure of home care agencies, the department~~  
15 ~~shall take into consideration the standards of nationally~~  
16 ~~recognized accrediting agencies as the department may find~~  
17 ~~appropriate.~~

18 (D.1) HOME CARE AGENCY REGULATIONS.-- <—

19 (1) IN DEVELOPING RULES AND REGULATIONS FOR LICENSURE OF  
20 HOME CARE AGENCIES, THE DEPARTMENT SHALL ENSURE THAT AN  
21 INDIVIDUAL ACCEPTED FOR REFERRAL BY A HOME CARE AGENCY AFTER  
22 THE EFFECTIVE DATE OF THIS SUBSECTION SHALL HAVE THE  
23 FOLLOWING TRAINING OR EXPERIENCE PRIOR TO REFERRAL TO  
24 CLIENTS:

25 (I) SUCCESSFUL COMPLETION OF A NURSE AIDE TRAINING  
26 PROGRAM APPROVED BY THE STATE OR SUCCESSFUL COMPLETION OF  
27 A COMPETENCY EXAMINATION;

28 (II) SUCCESSFUL COMPLETION OF A HOME HEALTH AIDE  
29 TRAINING PROGRAM APPROVED BY THE STATE OR SUCCESSFUL  
30 COMPLETION OF A COMPETENCY EXAMINATION;

1           (III) SUCCESSFUL COMPLETION OF A PERSONAL CARE  
2           WORKER TRAINING CREDENTIALING PROGRAM APPROVED BY THE  
3           STATE OR SUCCESSFUL COMPLETION OF A COMPETENCY  
4           EXAMINATION APPROVED BY THE STATE; OR

5           (IV) SUCCESSFUL COMPLETION OF A WRITTEN EXAMINATION  
6           DEMONSTRATING COMPETENCY FOR PERSONS PERFORMING ONLY IADL  
7           SERVICES.

8           DOCUMENTATION OF AT LEAST ONE OF SUBPARAGRAPHS (I) THROUGH  
9           (IV) SHALL BE KEPT IN EACH INDIVIDUAL'S FILE IN THE HOME CARE  
10          AGENCY OFFICE. IN ADDITION, DOCUMENTATION OF APPLICABLE STATE  
11          LICENSURE FOR ANY HEALTH CARE PRACTITIONER SHALL BE KEPT ON  
12          FILE IN THE HOME CARE AGENCY OFFICE.

13          (2) PRIOR TO LICENSING A HOME CARE AGENCY, THE  
14          DEPARTMENT SHALL ENSURE THAT ALL INDIVIDUALS REFERRED BY A  
15          HOME CARE AGENCY, OFFICE STAFF WORKING FOR A HOME CARE AGENCY  
16          AND OWNERS OF EACH HOME CARE AGENCY SHALL HAVE CRIMINAL  
17          HISTORY RECORD INFORMATION, IN ACCORDANCE WITH THE  
18          REQUIREMENTS OF SECTION 503 OF THE ACT OF NOVEMBER 6, 1987  
19          (P.L.381, NO.79), KNOWN AS THE "OLDER ADULTS PROTECTIVE  
20          SERVICES ACT," ON FILE IN THE OFFICE.

21          (3) PRIOR TO REFERRAL TO CLIENTS, ALL INDIVIDUALS AND  
22          ANY OTHER OFFICE STAFF OR CONTRACTORS WITH CLIENT CONTACT  
23          SHALL HAVE DOCUMENTATION IN THE HOME CARE AGENCY FILES FROM A  
24          PHYSICIAN OR OTHER APPROPRIATE HEALTH CARE PROFESSIONAL THAT  
25          THE INDIVIDUAL IS FREE OF COMMUNICABLE DISEASE INCLUDING, AT  
26          A MINIMUM, A TUBERCULOSIS SCREENING.

27          SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:  
28          SECTION 806.2. INSPECTIONS AND PLANS OF CORRECTION.

29          (A) CONSENT TO ENTRY AND ACCESS.--AN APPLICATION FOR  
30          LICENSURE OR THE ISSUANCE AND RENEWAL OF ANY LICENSE BY THE

1 DEPARTMENT SHALL CONSTITUTE CONSENT BY THE APPLICANT FOR THE  
2 HOME CARE AGENCY AND THE OWNER OF THE PREMISES FOR THE  
3 DEPARTMENT'S REPRESENTATIVES TO ENTER THE PREMISES FOR THE  
4 PURPOSE OF CONDUCTING AN INSPECTION DURING REGULAR BUSINESS  
5 HOURS.

6 (B) VIOLATIONS AND PLAN OF CORRECTION.--IF VIOLATIONS ARE  
7 IDENTIFIED AS A RESULT OF AN INSPECTION, THE HOME CARE AGENCY  
8 WILL BE GIVEN A REPORT OF INSPECTION THAT CLEARLY OUTLINES THE  
9 NATURE OF THE VIOLATION. THE HOME CARE AGENCY SHALL SUBMIT A  
10 WRITTEN PLAN OF CORRECTION IN RESPONSE TO THE REPORT, STATING  
11 ACTIONS TO BE TAKEN BY THE AGENCY TO CORRECT THE VIOLATIONS AND  
12 A TIME FRAME FOR THOSE CORRECTIVE ACTIONS.

13 Section 3 4. Section 807(b) of the act, amended December 18, <—  
14 1992 (P.L.1602, No.179), is amended to read:

15 Section 807. Application for license.

16 \* \* \*

17 (b) Fees.--Application for a license or for renewal of a  
18 license shall be accompanied by the following fees:

19 (1) Regular or special license:

20	Home health agency	\$250.00	
21	<del>Home care agency</del>	<del>\$250.00</del>	<—
22	<u>HOME CARE AGENCY</u>	<u>100.00</u>	<—
23	Ambulatory surgical facility	250.00	
24	Birth center	70.00	
25	Long-term care nursing facility	250.00	
26	Plus per each long-term care bed in excess of		
27	75 beds	2.00	
28	Hospital		
29	Every two years	500.00	
30	Plus per each inpatient bed		

1	every two years	4.00
2	Other health care facility	100.00
3	(2) Provisional license all facilities:	
4	Provisional I	\$400.00
5	Plus per each inpatient bed	4.00
6	Provisional II	600.00
7	Plus per each inpatient bed	6.00
8	Provisional III	800.00
9	Plus per each inpatient bed	8.00
10	Provisional IV	1,000.00
11	Plus per each inpatient bed	10.00

12 \* \* \*

13 Section 4 5. Section 808(b) of the act, amended October 16, <—  
 14 1998 (P.L.777, No.95), is amended to read:

15 Section 808. Issuance of license.

16 \* \* \*

17 (b) Separate and limited licenses.--Separate licenses shall  
 18 not be required for different services within a single health  
 19 care facility except that home health care, home care, hospice  
 20 or long-term nursing care will require separate licenses. A  
 21 limited license, excluding from its terms a particular service  
 22 or portion of a health care facility, may be issued under the  
 23 provisions of this act.

24 \* \* \*

25 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—  
 26 SECTION 903.1. REPORT TO GENERAL ASSEMBLY.

27 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, THE  
 28 DEPARTMENT OF AGING SHALL PROVIDE TO THE GENERAL ASSEMBLY A  
 29 REPORT ON PROGRAMS WITHIN THIS COMMONWEALTH AND THROUGHOUT THE  
 30 UNITED STATES THAT SEEK TO MAXIMIZE THE EFFECTIVENESS OF



1 CHARITABLE PHARMACEUTICAL PROGRAMS AND TO PROVIDE  
2 RECOMMENDATIONS FOR NEW LAWS AND INITIATIVES WITHIN THIS  
3 COMMONWEALTH TO ENHANCE THE ABILITY OF PENNSYLVANIANS TO TAKE  
4 ADVANTAGE OF SUCH PROGRAMS.

5       Section 5 7. This act shall take effect in 60 days.

<—