

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1190** Session of  
2013

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INTRODUCED BY CUTLER, DELISSIO, GRELL, MILLARD, STERN, CARROLL, SNYDER, HARHAI, STURLA, SAYLOR, TAYLOR, METCALFE, SWANGER, F. KELLER, FLECK, CAUSER, BAKER, LONGIETTI, KAUFFMAN, RAPP, GODSHALL, TOOHIL, PICKETT, MAJOR, PETRARCA, KOTIK, HICKERNELL, DAVIS, MACKENZIE, MENTZER, GILLESPIE, STEVENSON, THOMAS, MILNE, HESS, GERGELY, PETRI, WATSON, MILLER, GINGRICH, ADOLPH, GROVE, O'BRIEN, LAWRENCE, SCHLOSSBERG, FABRIZIO, K. BOYLE, SABATINA AND CALTAGIRONE, APRIL 15, 2013

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 24, 2013

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## 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," in licensing of health care  
10 facilities, further providing for definitions, for licensure,  
11 for term and content of license and for reliance on  
12 accrediting agencies and Federal Government; and providing  
13 for reliance on national accreditation organizations for  
14 hospitals.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

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

20 Section 802.1. Definitions.

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

4 \* \* \*

5 "Deemed" or "deemed status." A process under which a  
6 hospital may be exempt from routine licensure renewal surveys  
7 conducted by the Department of Health.

8 \* \* \*

9 "National accreditation organization." A nongovernmental  
10 organization that has been authorized by the Centers for  
11 Medicare and Medicaid Services (CMS) to conduct hospital surveys  
12 to ensure compliance with the CMS Conditions of Participation.

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

15 Section 806. Licensure.

16 \* \* \*

17 (i) Hospitals.--

18 (1) In issuing a license to a hospital, the department  
19 shall, at the request of the hospital, rely on the reports of  
20 national accreditation organizations designated as acceptable  
21 to the department pursuant to the requirements set forth in  
22 section 810.1 and shall issue a license to a hospital that  
23 received approval or accreditation from the designated  
24 organization.

25 (2) A hospital that is not accredited by a national  
26 accreditation organization or does not request that the  
27 department rely on the accreditation shall be required to  
28 comply with 28 Pa. Code Chs. 51 (relating to general  
29 information) and 101 (relating to general information).

30 (3) This subsection shall not be construed as a

1 limitation on the department's right of inspection permitted  
2 under section 813, including the right to inspect in response  
3 to complaints or other reports made to the department.

4 (4) A hospital that is deemed shall comply with the  
5 standards established by a national accreditation  
6 organization that accredits the hospital. Any licensure  
7 inspection of a deemed hospital shall be based on the  
8 standards established by the national accreditation  
9 organization that accredits the hospital and State law.

10 (5) All hospitals, whether licensed through  
11 accreditation or compliance with the department's  
12 regulations, shall submit plans for new construction and  
13 renovation of facilities to the department and must receive  
14 approval from the department before providing services in the  
15 newly constructed or renovated areas.

16 Section 3. Sections 809 and 810 HEADING AND (a) of the act, <--  
17 amended December 18, 1992 (P.L.1602, No.179), are amended to  
18 read:

19 Section 809. Term and content of license.

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

22 (1) be issued for a specified length of time as follows,  
23 including the provision of section 804(b):

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

28 (ii) provisional licenses for the length of time to  
29 be determined by the department upon issuance of the  
30 provisional license;

1           (iii) all deemed hospitals for the duration of the  
2           accreditation cycle in good standing with the expiration  
3           date to be the last day of the month in which the license  
4           is issued; and

5           (iv) all hospitals licensed by compliance with the  
6           department's regulations for a period of three years,  
7           with the expiration date to be the last day of the month  
8           in which the license is issued;

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

10          (3) not be transferable except upon prior written  
11 approval of the department;

12          (4) be issued only to the health care provider and for  
13 the health care facility or facilities named in the  
14 application;

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

18          (6) specify limitations which have been placed on the  
19 facility.

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

22          (c) Visitation.--Whenever practicable, the department shall  
23 make its visitations and other reviews necessary for licensure  
24 contemporaneously with similar visitations and other reviews  
25 necessary for provider certification in the Medicare and medical  
26 assistance programs and the department shall endeavor to avoid  
27 duplication of effort by the department and providers in the  
28 [certificate of need,] medical assistance and Medicare provider  
29 certification and licensure procedures. This shall not preclude  
30 the department from unannounced visits.

1 (d) Use of beds in excess of maximum.--Except in case of  
2 [extreme emergency] natural disasters, catastrophes, acts of  
3 bio-terrorism, epidemics or other emergencies, no license shall  
4 permit the use of beds for inpatient use in the licensed  
5 facility in excess of the maximum number set forth in the  
6 license without first obtaining written permission from the  
7 department: Provided, That during the period of a license, a  
8 health care facility may without the prior approval of the  
9 department increase the total number of beds by not more than  
10 ten beds or 10% of the total bed capacity, whichever is less.

11 Section 810. Reliance on accrediting agencies and Federal  
12 Government for health care facilities other than  
13 hospitals.

14 (a) Reports of other agencies.--After a provider has been  
15 licensed or approved to operate a health care facility other  
16 than a hospital for at least two years under this or prior acts,  
17 none of which has been pursuant to a provisional license, the  
18 department may rely on the reports of the Federal Government or  
19 nationally recognized accrediting agencies to the extent those  
20 standards are determined by the department to be similar to  
21 regulations of the department and if the provider agrees to:

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

24 (2) permit the department to inspect those areas or  
25 programs of the health care facility not covered by the  
26 agency or government inspection or where the agency or  
27 government report discloses more than a minimal violation of  
28 department regulations.

29 \* \* \*

30 Section 4. The act is amended by adding a section to read:

1 Section 810.1. Reliance on national accreditation organizations  
2 for hospitals.

3 (a) Report of other agencies.--After a provider has been  
4 licensed or approved to operate a hospital for at least three  
5 years under this or a prior act, no portion of which has been  
6 pursuant to a provisional or other restricted license, if  
7 requested by the facility, the department shall rely on the  
8 report of an acceptable accreditation organization authorized  
9 pursuant to this section and section 806.

10 (b) Application and approval process.--An accreditation  
11 organization shall apply to the department for approval. Prior  
12 to approval, the department shall:

13 (1) determine that the standards of the accreditation  
14 organization are equal to or more stringent than existing  
15 licensure survey requirements;

16 (2) evaluate the survey or inspection process of the  
17 accreditation organization to ensure the integrity of the  
18 survey or inspection process; and

19 (3) enter into a written agreement with the  
20 accreditation organization that includes requirements for:

21 (i) notice of all surveys and inspections;

22 (ii) sharing of complaints and other relevant  
23 information;

24 (iii) participation of the department in  
25 accreditation organization activities if determined to be  
26 appropriate by the department;

27 (iv) protection of the confidentiality of medical  
28 and personal records;

29 (v) all licensure inspections of deemed hospitals  
30 shall be based on the standards established by the

1 national accreditation organization and State law; and

2 (vi) any other provision necessary to ensure the  
3 integrity of the accreditation and licensure process.

4 (c) Finding of substantial compliance of hospital.--

5 (1) If an approved accreditation organization has issued  
6 a final report finding a hospital to be in substantial  
7 compliance with the accreditation organization's standards,  
8 the department shall accept the report as evidence that the  
9 hospital has met the department's licensure requirements and  
10 shall grant the hospital deemed status, IF THE HOSPITAL <--  
11 PROVIDES A COPY OF THE FINAL REPORT TO THE DEPARTMENT WITHIN  
12 TEN BUSINESS DAYS OF THE HOSPITAL RECEIVING IT FROM THE  
13 APPROVED ACCREDITATION ORGANIZATION. The final report must  
14 have been issued no more than one year prior to the  
15 expiration date of the hospital's license.

16 (2) A hospital that receives a conditional <--  
17 accreditation, provisional accreditation, preliminary or  
18 final denial of ANYTHING LESS THAN FULL accreditation shall <--  
19 be subject to full licensure survey by the department.

20 (d) Reports to department.--

21 (1) An approved accreditation organization shall send <--  
22 the department all final accreditation reports of each  
23 inspection and survey at the time it is sent to the hospital.

24 ~~(2)~~ (1) A final report of an approved accreditation <--  
25 organization shall be made immediately available to the  
26 public in accordance with department practice.

27 ~~(3)~~ (2) A preliminary or final report of an approved <--  
28 accreditation organization shall not be admissible as  
29 evidence in a civil action or proceeding.

30 (e) Inspection by department.--The department may inspect an

1 accredited hospital to:

2 (1) follow up on a systemic concern or event identified  
3 by an approved accreditation organization or by report filed  
4 by the facility;

5 (2) investigate a complaint;

6 (3) validate the findings of an approved accreditation  
7 organization that determined that a hospital is in compliance  
8 with conditions of participation issued by the Centers for  
9 Medicare and Medicaid Services and State licensure  
10 requirements; or

11 (4) comply with the request of any Federal or State  
12 regulatory entity.

13 (f) Participation or observation of surveys or inspections  
14 by accreditation organization by the department.--The department  
15 may participate in or observe a survey or inspection of a  
16 hospital conducted by an approved accreditation organization.

17 (g) Actions by the department on accreditation  
18 organization's failure to meet obligations.--

19 (1) Upon determination by the department that an  
20 approved accreditation organization has failed to meet its  
21 obligations under this section, the department shall have 30  
22 days from the time it notifies the accreditation organization  
23 to resolve any issues that are resulting in the accrediting  
24 agency's not meeting its obligations.

25 (2) If, after 30 days, the department and the  
26 accrediting organization have not reached an agreement that  
27 brings the accrediting organization back into compliance with  
28 this act, the department shall provide notice in the  
29 Pennsylvania Bulletin that it intends to take action to  
30 withdraw the approval of the accreditation organization, list

1 the reasons the action is being taken, make available the  
2 accreditation organization's response to the department and  
3 receive public comment regarding the decision for a period of  
4 not less than 30 days.

5 (3) If, after the conclusion of the public comment  
6 period, the department's determination is that the approved  
7 accreditation organization has failed to meet its obligation  
8 under this section, the department may withdraw approval of  
9 the accreditation organization granted under sections 806 and  
10 810 and immediately terminate the agreement between the  
11 department and the accreditation organization.

12 (4) Any hospital that has achieved deemed status as a  
13 result of being accredited by the accreditation organization  
14 terminated by the department shall keep the deemed status  
15 until the end of the current licensure period. To renew a  
16 license, the hospital shall either be accredited by another  
17 department-approved accreditation organization or shall be  
18 subject to the department's licensure regulations as provided  
19 for in section 806(i)(2).

20 Section 5. This act shall take effect in 180 days.