

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 838

Session of 1981

INTRODUCED BY SNYDER AND KUSSE, MAY 27, 1981

AS AMENDED ON THIRD CONSIDERATION, JULY 1, 1981

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," ~~deleting certain definitions and~~ <—
10 ~~requirements.~~ CHANGING THE DEFINITION OF "HOME HEALTH CARE <—
11 AGENCY" AND FURTHER PROVIDING FOR THE EFFECTIVE DATE.

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

14 ~~Section 1. Section 801.1, act of July 19, 1979 (P.L.130, <—~~
15 ~~No.48), known as the "Health Care Facilities Act," added July~~
16 ~~12, 1980 (P.L.655, No.136), is amended to read:~~

17 ~~Section 801.1. Purpose.~~

18 ~~It is the purpose of this chapter to protect and promote the~~
19 ~~public health and welfare through the establishment and~~
20 ~~enforcement of regulations setting minimum standards in the~~
21 ~~construction, maintenance and operation of health care~~
22 ~~facilities. Such standards are intended by the Legislature to~~

1 ~~assure safe, adequate and efficient facilities and services, and~~
2 ~~to promote the health, safety and adequate care of the patients~~
3 ~~or residents of such facilities. It is also the purpose of this~~
4 ~~chapter to assure quality health care through appropriate and~~
5 ~~nonduplicative review and inspection with due regard to the~~
6 ~~protection of the health and rights of privacy of patients and~~
7 ~~without unreasonably interfering with the operation of the~~
8 ~~health care facility [or home health agency].~~

9 Section 2 1. The definitions of "~~health care facility,~~" <—
10 "home health care agency" and "intermediate care facility" in
11 section 802.1 ~~of the act,~~ ACT OF JULY 19, 1979 (P.L.130, NO.48), <—
12 KNOWN AS THE "HEALTH CARE FACILITIES ACT," added July 12, 1980
13 (P.L.655, No.136), are amended to read:

14 Section 802.1. Definitions.

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

18 * * *

19 "~~Health care facility.~~" ~~A general, tuberculosis, chronic~~ <—
20 ~~disease or other type of hospital, a skilled nursing facility, a~~
21 ~~home health care agency, an intermediate care facility, an~~
22 ~~ambulatory surgical facility, birth center regardless of whether~~
23 ~~such health care facility is operated for profit, nonprofit or~~
24 ~~by an agency of the Commonwealth or local government. The term~~
25 ~~health care facility shall not include an office used primarily~~
26 ~~for the private practice of medicine, osteopathy, optometry,~~
27 ~~chiropractic, podiatry or dentistry, nor a program which renders~~
28 ~~treatment or care for drug or alcohol abuse or dependence unless~~
29 ~~located within a health facility, nor a home health care agency,~~
30 ~~nor a facility providing treatment solely on the basis of prayer~~

1 ~~or spiritual means. A mental retardation facility is not a~~
2 ~~health care facility except to the extent that it provides~~
3 ~~skilled nursing care. The term health care facility shall not~~
4 ~~apply to a facility which is conducted by a religious~~
5 ~~organization for the purpose of providing health care services~~
6 ~~exclusively to clergymen or other persons in a religious~~
7 ~~profession who are members of a religious denomination.~~

8 * * *

9 †"Home health care agency." An organization or part thereof <—
10 staffed and equipped to provide SKILLED nursing and at least one <—
11 therapeutic service to disabled, aged, injured or sick persons
12 in their place of residence. The agency may also provide other
13 health-related services to protect and maintain persons in their
14 own home.† <—

15 * * *

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

26 * * *

27 ~~Section 3. Subsection (d) of section 806, subsection (b) of <—~~
28 ~~section 808 and subsection (a) of section 820 of the act, added~~
29 ~~July 12, 1980 (P.L. 655, No. 136), are amended to read:~~
30 ~~Section 806. Licensure.~~

1 * * *

2 ~~[(d) Home health care agency regulations. In developing~~
3 ~~rules and regulations for licensure of home health care agencies~~
4 ~~the department shall take into consideration the standards of~~
5 ~~the National Association of Home Health Agencies, National~~
6 ~~League of Nursing, Joint Commission on the Accreditation of~~
7 ~~Hospitals and National Council for Homemakers, Home Health Aides~~
8 ~~and other accrediting bodies as the department may find~~
9 ~~appropriate. Home health care agencies certified as providers by~~
10 ~~the department to the Federal Government for purposes of the~~
11 ~~Medicare program shall be deemed to comply with and satisfy the~~
12 ~~department's regulations governing home health care agencies.]~~

13 * * *

14 ~~Section 808. Issuance of license.~~

15 * * *

16 ~~(b) Separate and limited licenses. Separate licenses shall~~
17 ~~not be required for different services within a single health~~
18 ~~care facility except that [home health care or] skilled or~~
19 ~~intermediate nursing care will require separate licenses. A~~
20 ~~single facility providing both skilled and intermediate care~~
21 ~~shall need only one separate license to cover those services. A~~
22 ~~limited license, excluding from its terms a particular service~~
23 ~~or portion of a health care facility, may be issued under the~~
24 ~~provisions of this act.~~

25 * * *

26 ~~Section 820. Existing rules and regulations.~~

27 ~~(a) Continuation of rules and regulations. Existing rules~~
28 ~~and regulations applicable to health care facilities not clearly~~
29 ~~inconsistent with the provisions of this chapter, shall remain~~
30 ~~in effect until replaced, revised or amended. In developing~~

1 ~~regulations, the department shall give priority to developing~~
2 ~~minimum standards for [home health agencies and] other health~~
3 ~~care facilities not previously subject to regulation. Sections~~
4 ~~103.2 and 103.6 of Title 28 of the Pennsylvania Code are~~
5 ~~repealed.~~

6 * * *

7 SECTION 2. SECTION 906 OF THE ACT, AMENDED DECEMBER 13, 1979 <—
8 (P.L.532, NO.118), IS AMENDED TO READ:

9 SECTION 906. EFFECTIVE DATE.

10 [THIS] (A) EXCEPT AS PROVIDED IN SUBSECTION (B) THIS ACT
11 SHALL TAKE EFFECT OCTOBER 1, 1979; PROVIDED THAT IMPLEMENTATION
12 OF REVIEWS PURSUANT TO THIS ACT SHALL NOT BEGIN UNTIL APRIL 1,
13 1980.

14 (B) THE PROVISIONS OF THIS ACT RELATING TO REQUIREMENTS FOR
15 THE OPERATION OF A HOME HEALTH CARE AGENCY AND ANY RULES AND
16 REGULATIONS ADOPTED PURSUANT TO THIS ACT RELATING TO HOME HEALTH
17 CARE AGENCIES SHALL TAKE EFFECT JULY 12, 1982.

18 SECTION 3. SECTION 11 OF THE ACT OF JULY 12, 1980 (P.L.655,
19 NO.136) ENTITLED, "AN ACT AMENDING THE ACT OF JULY 19, 1979
20 (P.L.130, NO.48), ENTITLED 'AN ACT RELATING TO HEALTH CARE;
21 PRESCRIBING THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH;
22 ESTABLISHING AND PROVIDING THE POWERS AND DUTIES OF THE STATE
23 HEALTH COORDINATING COUNCIL, HEALTH SYSTEMS AGENCIES AND HEALTH
24 CARE POLICY BOARD IN THE DEPARTMENT OF HEALTH, AND STATE HEALTH
25 FACILITY HEARING BOARD IN THE DEPARTMENT OF JUSTICE; PROVIDING
26 FOR CERTIFICATION OF NEED OF HEALTH CARE PROVIDERS AND
27 PRESCRIBING PENALTIES,' AMENDING AND ADDING CERTAIN DEFINITIONS;
28 FURTHER PROVIDING FOR POWERS AND DUTIES OF THE DEPARTMENT, FOR
29 THE ENCOURAGEMENT OF COMPETITION AND INNOVATION, FOR COOPERATION
30 WITH THE DEPARTMENT; FURTHER PROVIDING FOR CERTIFICATES OF NEED,

1 FOR THE PROMULGATION OF REGULATIONS AND OTHER PROCEDURAL
2 MATTERS, FOR MAJOR MEDICAL EQUIPMENT AND FOR THE LICENSURE AND
3 REGULATION OF HEALTH CARE FACILITIES, AND PROVIDING PENALTIES,"
4 IS REPEALED INsofar AS IT IS INCONSISTENT WITH THE PROVISIONS OF
5 SECTION 2 OF THIS ACT.

6 Section 4. This act shall take effect immediately.