

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1190 Session of 2013

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

REFERRED TO COMMITTEE ON HEALTH, APRIL 15, 2013

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.

21 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 * * *

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

7 * * *

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

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

14 Section 806. Licensure.

15 * * *

16 (i) Hospitals.--

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

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

29 (3) This subsection shall not be construed as a
30 limitation on the department's right of inspection permitted

1 under section 813, including the right to inspect in response
2 to complaints or other reports made to the department.

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

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

15 Section 3. Sections 809 and 810(a) of the act, amended
16 December 18, 1992 (P.L.1602, No.179), are amended to read:
17 Section 809. Term and content of license.

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

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

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

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

29 (iii) all deemed hospitals for the duration of the
30 accreditation cycle in good standing with the expiration

1 date to be the last day of the month in which the license
2 is issued; and

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

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

8 (3) not be transferable except upon prior written
9 approval of the department;

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

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

16 (6) specify limitations which have been placed on the
17 facility.

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

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

29 (d) Use of beds in excess of maximum.--Except in case of
30 [extreme emergency] natural disasters, catastrophes, acts of

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

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

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

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

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

27 * * *

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

29 Section 810.1. Reliance on national accreditation organizations
30 for hospitals.

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

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

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

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

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

19 (i) notice of all surveys and inspections;

20 (ii) sharing of complaints and other relevant
21 information;

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

25 (iv) protection of the confidentiality of medical
26 and personal records;

27 (v) all licensure inspections of deemed hospitals
28 shall be based on the standards established by the
29 national accreditation organization and State law; and

30 (vi) any other provision necessary to ensure the

1 integrity of the accreditation and licensure process.

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

3 (1) If an approved accreditation organization has issued
4 a final report finding a hospital to be in substantial
5 compliance with the accreditation organization's standards,
6 the department shall accept the report as evidence that the
7 hospital has met the department's licensure requirements and
8 shall grant the hospital deemed status. The final report must
9 have been issued no more than one year prior to the
10 expiration date of the hospital's license.

11 (2) A hospital that receives a conditional
12 accreditation, provisional accreditation, preliminary or
13 final denial of accreditation shall be subject to full
14 licensure survey by the department.

15 (d) Reports to department.--

16 (1) An approved accreditation organization shall send
17 the department all final accreditation reports of each
18 inspection and survey at the time it is sent to the hospital.

19 (2) A final report of an approved accreditation
20 organization shall be made immediately available to the
21 public in accordance with department practice.

22 (3) A preliminary or final report of an approved
23 accreditation organization shall not be admissible as
24 evidence in a civil action or proceeding.

25 (e) Inspection by department.--The department may inspect an
26 accredited hospital to:

27 (1) follow up on a systemic concern or event identified
28 by an approved accreditation organization or by report filed
29 by the facility;

30 (2) investigate a complaint;

1 (3) validate the findings of an approved accreditation
2 organization that determined that a hospital is in compliance
3 with conditions of participation issued by the Centers for
4 Medicare and Medicaid Services and State licensure
5 requirements; or

6 (4) comply with the request of any Federal or State
7 regulatory entity.

8 (f) Participation or observation of surveys or inspections
9 by accreditation organization by the department.--The department
10 may participate in or observe a survey or inspection of a
11 hospital conducted by an approved accreditation organization.

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

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

20 (2) If, after 30 days, the department and the
21 accrediting organization have not reached an agreement that
22 brings the accrediting organization back into compliance with
23 this act, the department shall provide notice in the
24 Pennsylvania Bulletin that it intends to take action to
25 withdraw the approval of the accreditation organization, list
26 the reasons the action is being taken, make available the
27 accreditation organization's response to the department and
28 receive public comment regarding the decision for a period of
29 not less than 30 days.

30 (3) If, after the conclusion of the public comment

1 period, the department's determination is that the approved
2 accreditation organization has failed to meet its obligation
3 under this section, the department may withdraw approval of
4 the accreditation organization granted under sections 806 and
5 810 and immediately terminate the agreement between the
6 department and the accreditation organization.

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

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