

No. 1998-95

AN ACT

SB 996

Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An act relating to health care; prescribing the powers and duties of the Department of Health; establishing and providing the powers and duties of the State Health Coordinating Council, health systems agencies and Health Care Policy Board in the Department of Health, and State Health Facility Hearing Board in the Department of Justice; providing for certification of need of health care providers and prescribing penalties," providing for hospice services.

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

Section 1. The definition of "health care facility" in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, amended December 18, 1992 (P.L.1602, No.179), is amended to read:

Section 103. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Health care facility." For purposes of Chapter 7, any health care facility providing clinically related health services, including, but not limited to, a general or special hospital, including psychiatric hospitals, rehabilitation hospitals, ambulatory surgical facilities, long-term care nursing facilities, cancer treatment centers using radiation therapy on an ambulatory basis and inpatient drug and alcohol treatment facilities, both profit and nonprofit and including those operated by an agency or State or local government. *The term shall also include a hospice.* The term shall not include an office used primarily for the private or group practice by health care practitioners where no reviewable clinically related health service is offered, a facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of any church or religious denomination or a facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other persons in a religious profession who are members of the religious denominations conducting the facility.

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Section 2. The definition of "health care facility" in section 802.1 of the act, amended December 18, 1992 (P.L.1602, No.179), is amended and the section is amended by adding a definition to read:

Section 802.1. Definitions.

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

* * *

“Health care facility.” For purposes of Chapter 8, a health care facility includes, but is not limited to, a general, chronic disease or other type of hospital, a home health care agency, *a hospice*, a long-term care nursing facility, cancer treatment centers using radiation therapy on an ambulatory basis, an ambulatory surgical facility, a birth center regardless of whether such health care facility is operated for profit, nonprofit or by an agency of the Commonwealth or local government. The department shall have the authority to license other health care facilities as may be necessary due to emergence of new modes of health care. When the department so finds, it shall publish its intention to license a particular type of health care facility in the Pennsylvania Bulletin in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the “Regulatory Review Act.” The term health care facility shall not include an office used primarily for the private practice of a health care practitioner, nor a program which renders treatment or care for drug or alcohol abuse or dependence unless located within a health facility, nor a facility providing treatment solely on the basis of prayer or spiritual means. The term health care facility shall not apply to a facility which is conducted by a religious organization for the purpose of providing health care services exclusively to clergymen or other persons in a religious profession who are members of a religious denomination.

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“*Hospice.*” *An organization licensed under this act to provide a coordinated program of palliative and supportive services provided in a home, independent living environment or inpatient setting which provides for physical, psychological, social and spiritual care of dying persons and their families. Services are provided by a medically directed interdisciplinary team of professionals and volunteers, and bereavement care is available to the family following the death of the patient. The term shall also be deemed to refer to services provided by such an organization.*

* * *

Section 3. Section 806(a) of the act, amended December 18, 1992 (P.L.1602, No.179), is amended and the section is amended by adding a subsection to read:

Section 806. Licensure.

(a) License required.—No person shall maintain or operate *or hold itself out to be* a health care facility without first having obtained a license therefor issued by the department. No health care facility can be a provider of medical assistance services unless it is licensed by the department and certified as a medical assistance provider.

* * *

(g) *Hospices.*—

(1) *The department shall promulgate regulations to provide for a fee for application for the licensure of hospices. The fee shall be an amount sufficient to offset all costs incurred by the department related to the licensure and inspection of hospices. The department shall from time to time, as may be necessary, increase or decrease the fee to reflect actual expenditures related to hospices. Until such time as the department provides for the fee by regulation, an application for a hospice license shall be accompanied by a fee of \$250.*

(2) *The department shall promulgate regulations for licensure of hospices. The regulations shall, at a minimum, contain the standards set forth in regulations for hospices certified as providers of the Medicare program under Title XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.). The department may develop additional regulations as necessary to administer the licensure program and to protect the health and safety of the citizens of this Commonwealth. Until final regulations are adopted, the department shall operate the licensing program pursuant to interim guidelines consistent with this paragraph.*

(3) *Notwithstanding any provision to the contrary, any organization which provides or coordinates the provision of volunteer services for Medicare-certified hospice providers in the hospice delivery systems of its community and which:*

(i) *used "hospice" in its name prior to January 1, 1990;*

(ii) *qualified for exemption from Federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) prior to the effective date of this subsection; and*

(iii) *registered with the Department of State pursuant to the act of December 19, 1990 (P.L.1200, No.202), known as the "Solicitation of Funds for Charitable Purposes Act," prior to the effective date of this subsection;*

may continue to use its name as heretofore.

Section 4. Section 808(b) of the act, amended December 18, 1992 (P.L.1602, No.179), is amended to read:

Section 808. Issuance of license.

* * *

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

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Section 5. This act shall take effect in 90 days.

APPROVED—The 16th day of October, A.D. 1998.

THOMAS J. RIDGE