

ENROLLED BILL
-- Finance/Health and Government Operations --

Introduced by **Chairman, Finance Committee (By Request - Departmental - Health and Mental Hygiene)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Health Care Facilities and Laboratories - Accreditation Organizations and**
3 **Deeming**

4 FOR the purpose of defining the term "health care facility " for the purpose of certain
5 licensing, accreditation, and regulatory provisions to include certain hospitals,
6 health maintenance organizations, freestanding ambulatory care facilities,
7 assisted living facilities, laboratories, home health agencies, and residential
8 treatment centers; authorizing the Secretary of Health and Mental Hygiene to
9 accept all or part of certain reports of certain accreditation organizations as
10 meeting certain licensure and review requirements and to grant a certain
11 deemed status to certain health care facilities; requiring certain accreditation
12 organizations to apply to the Secretary for approval; requiring the Secretary to
13 take certain actions before allowing an accreditation organization to conduct
14 inspections or surveys on behalf of the Department of Health and Mental
15 Hygiene; requiring the Department to establish a certain agreement with the
16 accreditation organization; requiring disclosure to the public of certain reports

1 by approved accreditation organizations; authorizing the Department to conduct
 2 certain inspections; authorizing the Department to participate in or observe
 3 certain surveys and inspections; authorizing the Secretary to withdraw approval
 4 from an accreditation organization or deemed status from a health care facility
 5 under certain circumstances; repealing and altering certain provisions of law
 6 relating to accreditation ~~and~~, deemed status, and correction of deficiencies of
 7 certain health care facilities; defining certain terms; making a stylistic change;
 8 and generally relating to accreditation ~~and~~, deemed status, and correction of
 9 deficiencies of certain health care facilities.

10 BY repealing and reenacting, with amendments,
 11 Article - Health - General
 12 Section 17-202, 19-308, 19-309(b), 19-319(c), 19-323(a), 19-360, 19-3B-03(d),
 13 19-404, 19-1204, 19-1207, and 19-1805
 14 Annotated Code of Maryland
 15 (2005 Replacement Volume and 2005 Supplement)

16 BY repealing
 17 Article - Health - General
 18 Section 19-705.1(g)(5)
 19 Annotated Code of Maryland
 20 (2005 Replacement Volume and 2005 Supplement)

21 BY adding to
 22 Article - Health - General
 23 Section 19-2301 and 19-2302 to be under the new subtitle "Subtitle
 24 23. Accreditation of Health Care Facilities"
 25 Annotated Code of Maryland
 26 (2005 Replacement Volume and 2005 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - Health - General**

30 17-202.

31 (a) (1) The Secretary shall adopt regulations that set standards and
 32 requirements for medical laboratories.

33 (2) The regulations shall contain the standards and requirements that
 34 the Secretary considers necessary to assure the citizens of this State that medical
 35 laboratories provide safe and reliable services.

36 (b) To assure compliance with the standards and requirements adopted in
 37 regulations pursuant to this subtitle, the Secretary shall:

1 (1) Conduct an inspection of each medical laboratory for which a license
2 to operate is sought; and

3 (2) Conduct an inspection periodically of each medical laboratory for
4 which a license has been issued.

5 [(c) (1) A medical laboratory accredited by an organization approved by the
6 Secretary shall be deemed to meet the:

7 (i) State's inspection requirements under subsection (b)(2) of this
8 section; or

9 (ii) State's standards under this subtitle if the Secretary
10 determines the standards of the accrediting organization equivalent to the State's
11 requirements.

12 (2) The medical laboratory shall submit the report of the accrediting
13 organization to the Secretary within 30 days of its receipt.

14 (3) The Secretary may inspect a medical laboratory accredited by an
15 organization for the purpose of a complaint investigation or to validate findings of the
16 accrediting organization.]

17 [(d) (C) (1) In addition to the regulations adopted under subsection (a) of
18 this section, the Secretary shall adopt regulations establishing specific standards for
19 medical laboratories engaged in cytology, including regulations that:

20 (i) Limit the number of slides an individual may examine;

21 (ii) Require that the examination of cytology slides be performed in
22 a medical laboratory that has a license issued by the Secretary;

23 (iii) Prohibit payment to cytotechnologists for the examination of
24 cytology specimens or slides on a piecework basis;

25 (iv) Require cytology laboratories to review no less than 10 percent
26 of all negative gynecological slides;

27 (v) Require that the cytology review be performed by an individual
28 who qualifies as a supervisory cytotechnologist or a pathologist;

29 (vi) Require the individual who directs the laboratory to establish
30 and administer an ongoing quality assurance program using standards acceptable to
31 the Secretary;

32 (vii) Require cytology laboratories to reject unsatisfactorily prepared
33 specimens, make appropriate comments regarding the quality of the specimen, and
34 maintain records on unsatisfactorily prepared specimens for 5 years subject to review
35 by the Department;

1 (viii) Require cytology laboratories to maintain and store for 5 years
2 from the date of examination any slide that was examined;

3 (ix) Require all cytology reports to be retained for at least 10 years;

4 (x) Prohibit any person from sending cytology specimens to a
5 laboratory, including out-of-state laboratories, not licensed by the Department;

6 (xi) Require all individuals who examine gynecological slides
7 acquired from persons in this State to demonstrate satisfactory performance in an
8 approved cytology proficiency testing program; and

9 (xii) Establish any additional standards the Secretary considers
10 necessary to assure that medical laboratories engaged in cytology provide safe and
11 reliable services.

12 (2) The requirements of paragraph (1) of this subsection are in addition
13 to any other relevant provision of this subtitle or relevant regulation adopted in
14 accordance with any other provision of this subtitle governing medical laboratories.

15 [(e)] (D) (1) To assure compliance with standards adopted under subsection
16 [(d)] (C) of this section, the Secretary shall adopt regulations to establish and conduct
17 a cytology proficiency testing program for all cytology personnel that examine
18 gynecological cytology specimens.

19 (2) All cytology proficiency tests under the State cytology proficiency
20 testing program shall be conducted by an employee of the Department of Health and
21 Mental Hygiene who shall:

22 (i) Hand carry all testing materials to the testing site; and

23 (ii) Directly supervise the on-site proficiency testing.

24 (3) A medical laboratory shall pay the Department a fee established by
25 the Secretary to cover the cost of the laboratory's State cytology proficiency testing
26 program under this section.

27 (4) The Secretary shall adopt regulations for the cytology proficiency
28 testing program that:

29 (i) Define satisfactory cytology proficiency testing performance;
30 and

31 (ii) Set standards and requirements that a cytology proficiency
32 testing program must meet before it can be designated an approved program.

33 (5) The Secretary may accept the testing results of an approved cytology
34 proficiency testing program as meeting the cytology proficiency testing requirement
35 of this subtitle.

1 19-308.

2 (a) The Secretary shall adopt reasonable rules and regulations that set
3 standards of services for related institutions, ACCREDITED HOSPITALS, nonaccredited
4 hospitals, ACCREDITED RESIDENTIAL TREATMENT CENTERS, and nonaccredited
5 residential treatment centers in the following areas:

- 6 (1) The care of patients;
- 7 (2) The medical supervision of patients;
- 8 (3) The physical environment;
- 9 (4) Disease control;
- 10 (5) Sanitation;
- 11 (6) Safety; and
- 12 (7) Dietary matters.

13 (b) (1) To assure compliance with the standards adopted under this subtitle,
14 the Secretary shall have an inspection made:

15 (i) Of each related institution, each ACCREDITED HOSPITAL OR
16 nonaccredited hospital, and each ACCREDITED RESIDENTIAL TREATMENT CENTER
17 OR nonaccredited residential treatment center for which a license is sought; and

18 (ii) Periodically of each related institution, each ACCREDITED
19 HOSPITAL OR nonaccredited hospital, and each ACCREDITED RESIDENTIAL
20 TREATMENT CENTER OR nonaccredited residential treatment center for which a
21 license has been issued.

22 [(2) An accredited hospital and an accredited residential treatment center
23 shall be subject to inspections under this subtitle by the Department to:

24 (i) Investigate a complaint in accordance with § 19-309 of this
25 part;

26 (ii) Review compliance with a written progress report or other
27 documentation of corrective action in response to a focused survey submitted by the
28 hospital or residential treatment center to the Joint Commission on Accreditation of
29 Healthcare Organizations in response to a Type I finding that the hospital or
30 residential treatment center is only in partial compliance with the patient care
31 standards established by the Joint Commission on Accreditation of Healthcare
32 Organizations; or

33 (iii) Monitor corrective action, in accordance with § 19-360 of this
34 subtitle, for any serious or life-threatening patient care deficiency identified by the
35 Joint Commission on Accreditation of Healthcare Organizations, Centers for
36 Medicare and Medicaid Services, or the Department.

1 (3) In addition to other provisions of this subsection, an accredited
2 hospital shall be subject to inspections under this subtitle by the Department for
3 reviewing compliance with licensure requirements for risk management, utilization
4 review, and physician credentialing under § 19-319 of this subtitle.

5 (4) When conducting an inspection of an accredited hospital or
6 accredited residential treatment center, the Department shall use the current
7 applicable standards of the Joint Commission on Accreditation of Healthcare
8 Organizations.]

9 [(5)] (2) At least 2 inspections a year of each related institution shall be
10 unannounced.

11 [(6)] (3) The part of a building that contains part of a hospital,
12 residential treatment center, or related institution and any outbuilding are
13 considered part of the facility and are subject to inspection to determine occupancy
14 status for licensing purposes.

15 [(7)] (4) Subject to § 2-1246 of the State Government Article, during
16 each regular session of the General Assembly, the Department shall submit to the
17 General Assembly a report on the inspections.

18 [(8)] (5) (i) An employee of the Department may not inform a hospital,
19 residential treatment center, or related institution of any proposed inspection activity,
20 unless the chief of the employee's division directs the employee to do so.

21 (ii) An employee who violates any provision of this paragraph is
22 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
23 imprisonment not exceeding 1 year or both.

24 [(c)] (1) An accredited hospital or accredited residential treatment center
25 shall submit the survey findings of the Joint Commission on Accreditation of
26 Healthcare Organizations within 30 days of receipt by the hospital or the residential
27 treatment center to the Department.

28 (2) Except as provided in paragraph (5) of this subsection, an accredited
29 hospital's or accredited residential treatment center's official accreditation report and
30 any summary of the report, written progress reports, or plans of correction which are
31 submitted to the Secretary are confidential and are not discoverable or admissible as
32 evidence in any civil action.

33 (3) The Secretary shall refer any request for public inspection of a survey
34 report made by the Joint Commission on Accreditation of Healthcare Organizations
35 for an accredited hospital or accredited residential treatment center directly to the
36 hospital or residential treatment center.

37 (4) Upon the written request of any person, within 15 working days, the
38 accredited hospital or accredited residential treatment center shall make available for
39 public inspection the most recent accreditation letter and any Type I
40 recommendations if the Joint Commission on Accreditation of Healthcare

1 Organizations has made a final decision on any appeal by the hospital or residential
2 treatment center of the Type I recommendations.

3 (5) If information is released in accordance with paragraph (4) of this
4 subsection, that information is no longer confidential, but is not discoverable or
5 admissible in any civil action.

6 (6) An accreditation report, including any summary of the report and
7 any information contained in the report, disclosed by a hospital or residential
8 treatment center, the Joint Commission on the Accreditation of Healthcare
9 Organizations, or the Department is not admissible or discoverable in any civil action.

10 (7) If an accredited hospital or accredited residential treatment center
11 willfully fails to comply with the provisions of this subsection, the Secretary may
12 impose a penalty not to exceed \$1,000 a day for each day the violation continues.]

13 19-309.

14 (b) (1) To resolve expeditiously a complaint that alleges the existence of any
15 nonlife-threatening deficiency, the Department may refer the complaint directly to
16 the hospital or residential treatment center.

17 (2) If appropriate, issues relating to the practice of medicine or the
18 licensure or conduct of a health professional shall be referred to the hospital or the
19 residential treatment center and may be referred to the appropriate licensure board
20 for resolution.

21 (3) If the Department determines that the hospital or residential
22 treatment center has not satisfactorily addressed the referred complaint or where the
23 complaint alleges the existence of a life-threatening deficiency, the Department shall
24 conduct an independent investigation. [When conducting its independent
25 investigation, the Department shall use:

26 (i) For an accredited hospital or accredited residential treatment
27 center, the current applicable standards of review of the Joint Commission on
28 Accreditation of Healthcare Organizations;

29 (ii) For a nonaccredited hospital or nonaccredited residential
30 treatment center, the standards adopted by the Secretary under this subtitle;

31 (iii) For an accredited or nonaccredited hospital that is a facility as
32 defined under § 19-319.2 of this subtitle, the requirements of §§ 10-701 through
33 10-709 of this article; and

34 (iv) For an accredited or nonaccredited residential treatment center,
35 the requirements of §§ 10-701 through 10-709 of this article.]

1 19-319.

2 (c) (1) The applicant shall have a certificate of need, as required under
3 Subtitle 1 of this title, for the hospital, residential treatment center, or related
4 institution to be operated.

5 (2) The hospital, residential treatment center, or related institution to be
6 operated shall[:

7 (i) Be an accredited hospital or accredited residential treatment
8 center; or

9 (ii) Meet] MEET the requirements that the Secretary adopts under
10 this subtitle and Subtitle 12 of this title.

11 19-323.

12 (a) (1) Except as provided under [paragraphs (2) and (3)] PARAGRAPH (2) of
13 this subsection, a license for a related institution, AN ACCREDITED HOSPITAL, or a
14 nonaccredited hospital expires on the first anniversary of its effective date, unless the
15 license is renewed for a 1-year term as provided in this section.

16 [(2) A license for an accredited hospital expires when the certificate of
17 accreditation expires.

18 (3)] (2) A license for a nursing facility and an assisted living program as
19 defined under Subtitle 18 of this title shall be for a 2-year term.

20 19-360.

21 (a) This section applies to:

22 (1) Nonaccredited hospitals found in violation of the standards adopted
23 under this subtitle;

24 (2) Accredited hospitals:

25 (i) Found deficient as a result of the complaint review process; or

26 (ii) Subject to inspection by the Department under [§ 19-308(b)(2)
27 of this subtitle] § 19-2302(E) OF THIS TITLE as a result of a serious or life-threatening
28 patient care deficiency identified by the Joint Commission on Accreditation of
29 Healthcare Organizations, the Centers for Medicare and Medicaid Services, or the
30 Department; [and]

31 (3) Accredited residential treatment centers subject to inspection by the
32 Department under [§ 19-308(b)(2) of this subtitle] § 19-2302(E) OF THIS TITLE as a
33 result of a serious or life-threatening patient care deficiency identified by the Joint
34 Commission on Accreditation of Healthcare Organizations, the Centers for Medicare
35 and Medicaid Services, or the Department; AND

1 (4) HEALTH CARE FACILITIES THAT FAIL TO ACHIEVE SUBSTANTIAL
2 COMPLIANCE WITH THE STANDARDS OF AN APPROVED ACCREDITATION
3 ORGANIZATION UNDER § 19-2302(C)(2) OF THIS TITLE.

4 (b) (1) If conditions are found to be detrimental to patient health, safety, or
5 welfare, the Department shall allow the hospital, [or] residential treatment center, OR
6 HEALTH CARE FACILITY 30 days to address the deficiencies in other than serious or
7 life-threatening situations.

8 (2) If corrections cannot be completed within the 30-day period, the
9 Department may accept a plan of correction from the hospital, [or] residential
10 treatment center, OR HEALTH CARE FACILITY based upon evidence that corrective
11 action has been undertaken by the hospital or residential treatment center.

12 (3) Periodic updates of the plan of correction from the hospital, [or]
13 residential treatment center, OR HEALTH CARE FACILITY may be requested by the
14 Department.

15 (c) If a serious or life-threatening condition is found to exist, the Department
16 may order the hospital, [or] residential treatment center, OR HEALTH CARE FACILITY
17 to initiate immediate corrective action, and the hospital or residential treatment center
18 shall be subject to inspection by the Department under § 19-308 of this subtitle.

19 (d) If the Secretary determines that a serious or life-threatening patient care
20 deficiency exists and the hospital, [or] residential treatment center, OR HEALTH CARE
21 FACILITY fails to correct the deficiency through implementation of immediate
22 corrective action, the Secretary may:

23 (1) For an accredited hospital or accredited residential treatment center:

24 (i) Revoke or restrict the licensure entitlement of [§ 19-319(c)(2)(i)]
25 § 19-319(C)(2) of this subtitle;

26 (ii) Impose a civil monetary penalty of not more than \$10,000 per
27 instance or per day;

28 (iii) Impose a directed plan of correction; and

29 (iv) Impose appropriate operating conditions.

30 (2) For an unaccredited hospital OR HEALTH CARE FACILITY:

31 (i) Revoke or restrict the license to operate;

32 (ii) Impose a civil monetary penalty of not more than \$10,000 per
33 instance or per day;

34 (iii) Impose a directed plan of correction; and

35 (iv) Impose appropriate operating conditions.

1 (e) In determining the action to be taken under subsection (d) of this section,
2 the Secretary shall consider the following factors:

3 (1) The number, nature, and seriousness of the patient care deficiencies;

4 (2) The extent to which the patient care deficiency or deficiencies are part
5 of an ongoing pattern during the preceding 24 months;

6 (3) The degree of risk to the health, life, or safety of the patients of the
7 hospital, [or] residential treatment center, OR HEALTH CARE FACILITY caused by the
8 patient care deficiency or deficiencies;

9 (4) The efforts made by, and the ability of, the hospital, [or] residential
10 treatment center, OR HEALTH CARE FACILITY to correct the patient care deficiency or
11 deficiencies through implementation of immediate corrective action; and

12 (5) The hospital's, [or] residential treatment center's, OR HEALTH CARE
13 FACILITY'S history of compliance.

14 (f) The remedies provided by this section are in addition to any other remedies
15 available to the Department at law or equity.

16 19-3B-03.

17 (d) [(1) A freestanding ambulatory care facility accredited by an organization
18 approved by the Secretary shall be deemed to meet State licensing requirements.

19 (2) (i) The freestanding ambulatory care facility shall submit the
20 report of the accreditation organization to the Secretary within 30 days of its receipt.

21 (ii) All reports submitted under this paragraph shall be available
22 for public inspection.

23 (3) The Secretary may:

24 (i) Inspect a freestanding ambulatory care facility for the purpose
25 of a complaint investigation;

26 (ii) Inspect a freestanding ambulatory care facility to follow up on a
27 serious problem identified in an accreditation report; and

28 (iii) Annually conduct a survey to validate the findings of
29 accreditation reports.

30 (4) The Secretary may delegate to the Kidney Disease Commission the
31 Secretary's authority under [paragraph (3) of this subsection] § 19-3B-07 OF THIS
32 SUBTITLE to inspect kidney dialysis centers.

1 19-404.

2 (a) The Department shall adopt rules and regulations that set standards for
3 the care, treatment, health, safety, welfare, and comfort of patients of home health
4 agencies.

5 (b) The rules and regulations shall provide for the licensing of home health
6 agencies and annual license renewal, and shall establish standards that require as a
7 minimum, that all home health agencies:

8 (1) Within 10 days of acceptance of a patient for skilled care, make and
9 record all reasonable efforts to contact a physician to obtain the signed order required
10 under [paragraph (2)] ITEM (2) OF THIS SUBSECTION;

11 (2) That accept patients for skilled care do so only on the signed order of
12 a physician obtained within 28 days after acceptance;

13 (3) Adopt procedures for the administration of drugs and biologicals;

14 (4) Maintain clinical records on all patients accepted for skilled care;

15 (5) Establish patient care policies and personnel policies;

16 (6) Have services available at least 8 hours a day, 5 days a week, and
17 available on an emergency basis 24 hours a day, 7 days a week;

18 (7) Make service available to an individual in need within 24 hours of a
19 referral when stipulated by a physician's order;

20 (8) Have a designated supervisor of patient care who is a full-time
21 employee of the agency and is available at all times during operating hours and
22 additionally as needed; and

23 (9) Have as the administrator of the agency a person who has at least 1
24 year of supervisory experience in hospital management, home health management, or
25 public health program management and who is:

26 (i) A licensed physician;

27 (ii) A registered nurse; or

28 (iii) A college graduate with a bachelor's degree in a health-related
29 field.

30 (c) The rules and regulations may include provisions that:

31 (1) Deal with the establishment of home health agencies;

32 (2) Require each home health agency to have its policies established by a
33 professional group that includes at least:

- 1 (i) 1 physician;
- 2 (ii) 1 registered nurse;
- 3 (iii) 1 representative of another offered service; and
- 4 (iv) 1 public member;
- 5 (3) Govern the services provided by the home health agencies;
- 6 (4) Require keeping clinical records of each patient, including the plan of
7 treatment to be provided;
- 8 (5) Govern supervision of the services, as appropriate, by:
- 9 (i) A physician;
- 10 (ii) A registered nurse; or
- 11 (iii) Another health professional who is qualified sufficiently by
12 advanced training to supervise the same kind of services in a hospital; and
- 13 (6) Require submission of an annual report which includes service
14 utilization statistics.
- 15 [(d) (1) A home health agency accredited by an organization approved by the
16 Secretary shall be deemed to meet State licensing regulations.
- 17 (2) (i) The home health agency shall submit the report of the
18 accreditation organization to the Secretary within 30 days of its receipt.
- 19 (ii) All reports submitted under this paragraph shall be available
20 for public inspection.
- 21 (3) The Secretary may:
- 22 (i) Inspect the home health agency for the purpose of a complaint
23 investigation;
- 24 (ii) Inspect the home health agency to follow up on a serious
25 problem identified in an accreditation organization's report; and
- 26 (iii) Annually, conduct a survey of up to 5 percent of all home health
27 agencies in the State to validate the findings of an accreditation organization's
28 report.]
- 29 [(e) (D) The provisions of this section do not waive the requirement for a
30 home health agency to obtain a certificate of need.

1 19-705.1.

2 (g) [(5) (i) The Secretary may accept all or part of a report of an approved
3 accrediting organization as meeting the external review requirements under this
4 subtitle.

5 (ii) Except as provided in subparagraph (iii) of this paragraph, a
6 report of an approved accrediting organization used by the Department as meeting
7 the external review requirements under this subtitle shall be made available to the
8 public on request.

9 (iii) The Department may not disclose and shall treat as
10 confidential all confidential commercial and financial information contained in a
11 report of an approved accrediting organization in accordance with § 10-617(d) of the
12 State Government Article.

13 (iv) The Department may inspect a facility of a health maintenance
14 organization to:

- 15 1. Determine compliance with any quality requirement
16 established under this subtitle;
- 17 2. Follow up on a serious problem identified by an approved
18 accrediting organization; or
- 19 3. Investigate a complaint.]

20 19-1204.

21 [(a)] A comprehensive rehabilitation facility shall[:

22 (1) Provide only rehabilitation programs that have been accredited by
23 and meet the standards of the Commission on Accreditation of Rehabilitation
24 Facilities;

25 (2) Authorize the Commission on Accreditation of Rehabilitation
26 Facilities to release to the Secretary any information obtained by the Commission on
27 Accreditation of Rehabilitation Facilities during:

28 (i) The accreditation process; and

29 (ii) Any inspection; and

30 (3) Meet any other standard that the Secretary may adopt by regulation.

31 (b) To allow a comprehensive rehabilitation facility to achieve accreditation by
32 the Commission on Accreditation of Rehabilitation Facilities as required by
33 subsection (a) of this section for any rehabilitation program that the facility provides,
34 the Secretary may waive the accreditation requirement for the facility for no more
35 than 2 years from:

1 (1) July 1, 1986; or

2 (2) The date on which the facility begins operation] MEET ANY
3 STANDARD THAT THE SECRETARY ADOPTS BY REGULATION.

4 19-1207.

5 (a) A person may not hold himself out as providing a complete array of
6 rehabilitation services unless the person provides comprehensive physical
7 rehabilitation services.

8 (b) A health care facility may not provide or hold itself out as providing any
9 specialized rehabilitation program unless[:

10 (1) The program has been accredited by the Commission on
11 Accreditation of Rehabilitation Facilities to provide the particular specialized
12 rehabilitation program; or

13 (2) The facility is applying for accreditation from the Commission on
14 Accreditation of Rehabilitation Facilities under § 19-1204(b) of this subtitle to
15 provide the particular specialized rehabilitation program] THE FACILITY IS
16 LICENSED BY THE DEPARTMENT.

17 (c) A person may not provide comprehensive physical rehabilitation services
18 unless the person meets the requirements of this subtitle.

19 19-1805.

20 (a) The Department shall:

21 (1) Define different levels of assisted living according to the level of care
22 provided;

23 (2) Require all assisted living programs to be licensed to operate
24 according to the level of the program;

25 (3) Develop a waiver process for authorizing an assisted living program
26 to continue to care for an individual whose medical or functional condition has
27 changed since admission to the program to an extent that the level of care required by
28 the individual exceeds the level of care for which the program is licensed;

29 (4) Promote affordable and accessible assisted living programs
30 throughout the State;

31 (5) Establish and enforce quality standards for assisted living programs;

32 (6) Require periodic inspections of assisted living program facilities,
33 including at least an annual unannounced on-site inspection;

34 (7) Establish requirements for the qualifications or training or both of
35 assisted living program employees;

1 (8) Establish a "resident bill of rights" for residents of assisted living
2 program facilities; and

3 (9) Define which, if any, assisted living programs may be exempt from
4 the requirements of § 19-311 of this title.

5 [(b) (1) (i) The Secretary may accept all or part of a report of an approved
6 accrediting organization as meeting the State licensing requirements for renewal of a
7 license to operate an assisted living facility program.

8 (ii) The Secretary may not accept all or part of a report of an
9 approved accrediting organization as meeting the State licensing requirements for an
10 initial license to operate an assisted living facility program.

11 (2) (i) The assisted living facility program shall submit the report of
12 an accrediting organization to the Secretary within 30 days of the receipt of the report
13 by the assisted living facility program.

14 (ii) The report of an accrediting organization used by the
15 Department as meeting the State licensing requirements for renewal of a license to
16 operate an assisted living facility program shall be made available to the public on
17 request.

18 (3) The Secretary may inspect an assisted living facility program to:

19 (i) Investigate a complaint;

20 (ii) Follow up on a serious problem identified by an approved
21 accrediting organization; or

22 (iii) Validate findings of an approved accrediting organization.]

23 [(c) (B) (1) The Department, in consultation with representatives of the
24 affected industry and advocates for residents of the facilities and with the approval of
25 the Department of Aging and the Department of Human Resources, shall adopt
26 regulations to implement this subtitle.

27 (2) The regulations adopted under paragraph (1) of this subsection shall:

28 (i) Provide for the licensing of assisted living programs and the
29 renewal of licenses;

30 (ii) Require the Secretary to charge fees in a manner that will
31 produce funds not to exceed the actual direct and indirect costs to the Department for
32 inspecting assisted living program facilities and maintaining the licensure program
33 for assisted living programs under this subtitle;

34 (iii) Require the Department, during a survey or other inspection of
35 an assisted living program, to review the number of waivers granted to the program

1 under subsection (a)(3) of this section and determine whether a change in the
2 program's licensure status is warranted; and

3 (iv) Require an assisted living program facility to post in a
4 conspicuous place visible to actual and potential residents of the facility and other
5 interested parties:

6 1. A. Its statement of deficiencies for the most recent
7 survey;

8 B. Any subsequent complaint investigations conducted by
9 federal, State, or local surveyors; and

10 C. Any plans of correction in effect with respect to the survey
11 or complaint investigation; or

12 2. A notice of the location, within the facility, of the items
13 listed in item 1 of this item.

14 SUBTITLE 23. ACCREDITATION OF HEALTH CARE FACILITIES.

15 19-2301.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "ACCREDITATION ORGANIZATION" MEANS A PRIVATE ENTITY THAT
19 CONDUCTS INSPECTIONS AND SURVEYS OF HEALTH CARE FACILITIES BASED ON
20 NATIONALLY RECOGNIZED AND DEVELOPED STANDARDS.

21 (C) "DEEMED STATUS" MEANS A STATUS UNDER WHICH A HEALTH CARE
22 FACILITY MAY BE EXEMPT FROM ROUTINE SURVEYS CONDUCTED BY THE
23 DEPARTMENT.

24 (D) "HEALTH CARE FACILITY" MEANS:

25 (1) A HOSPITAL AS DEFINED IN § 19-301(B) OF THIS TITLE;

26 (2) A HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19-701(G)
27 OF THIS TITLE;

28 (3) A FREESTANDING AMBULATORY CARE FACILITY AS DEFINED IN §
29 19-3B-01 OF THIS TITLE;

30 (4) AN ASSISTED LIVING FACILITY AS DEFINED IN § 19-1801 OF THIS
31 TITLE;

32 (5) A LABORATORY AS DEFINED IN § 17-201 OF THIS ARTICLE;

33 (6) A HOME HEALTH AGENCY AS DEFINED IN § 19-401 OF THIS TITLE;

1 (7) A RESIDENTIAL TREATMENT CENTER AS DEFINED IN § 19-301 OF
2 THIS TITLE; AND

3 (8) A COMPREHENSIVE REHABILITATION FACILITY AS DEFINED IN §
4 19-1201 OF THIS TITLE.

5 19-2302.

6 (A) ~~ACCREDITATION ORGANIZATIONS~~ AN ACCREDITATION ORGANIZATION
7 SHALL APPLY TO THE SECRETARY FOR APPROVAL.

8 (B) PRIOR TO APPROVAL OF AN ACCREDITATION ORGANIZATION, THE
9 SECRETARY SHALL:

10 (1) DETERMINE THAT THE STANDARDS OF THE ACCREDITATION
11 ORGANIZATION ARE EQUAL TO OR MORE STRINGENT THAN EXISTING STATE
12 REQUIREMENTS;

13 (2) EVALUATE THE SURVEY OR INSPECTION PROCESS OF THE
14 ACCREDITATION ORGANIZATION TO ENSURE THE INTEGRITY OF THE SURVEY OR
15 INSPECTION PROCESS; AND

16 (3) ENTER INTO A FORMAL WRITTEN AGREEMENT WITH THE
17 ACCREDITATION ORGANIZATION THAT INCLUDES REQUIREMENTS FOR:

18 (I) NOTICE OF ALL SURVEYS AND INSPECTIONS;

19 (II) SHARING OF COMPLAINTS AND OTHER RELEVANT
20 INFORMATION;

21 (III) PARTICIPATION OF THE DEPARTMENT IN ACCREDITATION
22 ORGANIZATION ACTIVITIES; AND

23 (IV) ANY OTHER PROVISION NECESSARY TO ENSURE THE
24 INTEGRITY OF THE ACCREDITATION AND LICENSURE PROCESS.

25 (C) (1) WHEN AN APPROVED ACCREDITATION ORGANIZATION HAS ISSUED A
26 FINAL REPORT FINDING A HEALTH CARE FACILITY TO BE IN SUBSTANTIAL
27 COMPLIANCE WITH THE ACCREDITATION ORGANIZATION'S STANDARDS, THE
28 DEPARTMENT SHALL ACCEPT THE REPORT AS EVIDENCE THAT THE HEALTH CARE
29 FACILITY HAS MET STATE LICENSURE REQUIREMENTS AND SHALL GRANT THE
30 HEALTH CARE FACILITY DEEMED STATUS.

31 (2) A HEALTH CARE FACILITY THAT FAILS TO ACHIEVE SUBSTANTIAL
32 COMPLIANCE WITH THE STANDARDS OF AN APPROVED ACCREDITATION
33 ORGANIZATION MAY BE SUBJECT TO THE PROVISIONS OF § 19-360 OF THIS TITLE.

34 (D) (1) AN APPROVED ACCREDITATION ORGANIZATION SHALL SEND THE
35 DEPARTMENT ANY PRELIMINARY AND FINAL REPORT OF EACH INSPECTION AND
36 SURVEY AT THE TIME IT IS SENT TO THE HEALTH CARE FACILITY.

1 (2) A FINAL REPORT OF AN APPROVED ACCREDITATION ORGANIZATION
2 SHALL BE MADE IMMEDIATELY AVAILABLE TO THE PUBLIC ON REQUEST.

3 (3) A PRELIMINARY OR FINAL REPORT OF AN APPROVED
4 ACCREDITATION ORGANIZATION IS NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL
5 ACTION OR PROCEEDING.

6 (E) THE DEPARTMENT MAY INSPECT AN ACCREDITED HEALTH CARE
7 FACILITY TO:

8 (1) DETERMINE COMPLIANCE WITH ANY QUALITY REQUIREMENT;

9 (2) FOLLOW UP ON ANY SERIOUS PROBLEM IDENTIFIED BY AN
10 APPROVED ACCREDITATION ORGANIZATION;

11 (3) INVESTIGATE A COMPLAINT; OR

12 ~~(4) PARTICIPATE IN OR OBSERVE A SURVEY OF AN APPROVED~~
13 ~~ACCREDITATION ORGANIZATION; OR~~

14 ~~(5)~~ (4) VALIDATE THE FINDINGS OF AN APPROVED ACCREDITATION
15 ORGANIZATION.

16 (F) THE DEPARTMENT MAY PARTICIPATE IN OR OBSERVE A SURVEY OR
17 INSPECTION OF A HEALTH CARE FACILITY CONDUCTED BY AN APPROVED
18 ACCREDITATION ORGANIZATION.

19 ~~(F)~~ (G) ON A DETERMINATION BY THE SECRETARY THAT AN APPROVED
20 ACCREDITATION ORGANIZATION HAS FAILED TO MEET ITS OBLIGATIONS UNDER
21 THIS SECTION, THE SECRETARY MAY WITHDRAW:

22 (1) THE APPROVAL FROM THE ACCREDITATION ORGANIZATION; AND

23 (2) THE DEEMED STATUS GIVEN TO A HEALTH CARE FACILITY BY THE
24 ~~ACCREDITED~~ ACCREDITATION ORGANIZATION.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2006.