SENATE, No. 990

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED FEBRUARY 10, 2000

Sponsored by:
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS
 Provides hospital patients and nursing home residents with right to expect and receive appropriate pain assessment, management and treatment as integral component of their care.

CURRENT VERSION OF TEXT
 As introduced.

(Sponsorship Updated As Of: 2/29/2000)
AN ACT concerning the rights of hospital patients and nursing home residents and amending P.L.1989, c.170 and P.L.1976, c.120.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1989, c.170 (C.26:2H-12.8) is amended to read as follows:

2. Every person admitted to a general hospital as licensed by the State Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall have the right:

   a. To considerate and respectful care consistent with sound nursing and medical practices, which shall include being informed of the name and licensure status of a student nurse or facility staff member who examines, observes or treats the patient and the right to expect and receive appropriate assessment, management and treatment of pain as an integral component of that person's care;
   b. To be informed of the name of the physician responsible for coordinating his care;
   c. To obtain from the physician complete, current information concerning his diagnosis, treatment, and prognosis in terms he can reasonably be expected to understand. When it is not medically advisable to give this information to the patient, it shall be made available to another person designated by the patient on his behalf;
   d. To receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment which, except for those emergency situations not requiring an informed consent, shall include as a minimum the specific procedure or treatment, the medically significant risks involved, and the possible duration of incapacitation, if any, as well as an explanation of the significance of the patient's informed consent. The patient shall be advised of any medically significant alternatives for care or treatment, however, this does not include experimental treatments that are not yet accepted by the medical establishment;
   e. To refuse treatment to the extent permitted by law and to be informed of the medical consequences of this act;
   f. To privacy to the extent consistent with providing adequate medical care to the patient. This shall not preclude discussion of a patient's case or examination of a patient by appropriate health care personnel;
   g. To privacy and confidentiality of all records pertaining to his treatment, except as otherwise provided by law or third party payment contract, and to access to those records, including receipt of a copy...

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.
thereof at reasonable cost, upon request, unless his physician states in
writing that access by the patient is not medically advisable;

h. To expect that within its capacity, the hospital will make
reasonable response to his request for services, including the services
of an interpreter in a language other than English if 10% or more of
the population in the hospital's service area speaks that language;

i. To be informed by his physician of any continuing health care
requirements which may follow discharge and to receive assistance
from the physician and appropriate hospital staff in arranging for
required follow-up care after discharge;

j. To be informed by the hospital of the necessity of transfer to
another facility prior to the transfer and of any alternatives to it which
may exist, which transfer shall not be effected unless it is determined
by the physician to be medically necessary;

k. To be informed, upon request, of other health care and
educational institutions that the hospital has authorized to participate
in his treatment;

l. To be advised if the hospital proposes to engage in or perform
human research or experimentation and to refuse to participate in these
projects. For the purposes of this subsection "human research" does
not include the mere collecting of statistical data;

m. To examine and receive an explanation of his bill, regardless of
source of payment, and to receive information or be advised on the
availability of sources of financial assistance to help pay for the
patient's care, as necessary;

n. To expect reasonable continuity of care;

o. To be advised of the hospital rules and regulations that apply to
his conduct as a patient;

p. To treatment without discrimination as to race, age, religion,
sex, national origin, or source of payment; and

q. contract directly with a New Jersey licensed registered
professional nurse of the patient's choosing for private professional
nursing care during his hospitalization. A registered professional nurse
so contracted shall adhere to hospital policies and procedures in regard
to treatment protocols and policies and procedures so long as those
policies and procedures are the same for private duty and regularly
employed nurses. The registered professional nurse shall not be
considered an agent or employee of the hospital for purposes of any
financial liabilities, including, but not limited to, State or federal
employee taxes, worker's compensation payments or coverage for
professional liability.

The hospital, upon a patient's or his designee's request for private
professional nursing care, shall provide the patient or his designee with
a list of local nonprofit professional nurses association registries that
refer nurses for private professional nursing care.

(cf: P.L.1997, c.76, s.1)
2. Section 5 of P.L.1976, c.120 (C.30:13-5) is amended to read as follows:

5. Every resident of a nursing home shall:

a. Have the right to manage his own financial affairs unless he or
his guardian authorizes the administrator of the nursing home to
manage such resident's financial affairs. Such authorization shall be in
writing and shall be attested by a witness that is unconnected with the
nursing home, its operations, its staff personnel and the administrator
thereof, in any manner whatsoever.
b. Have the right to wear his own clothing. If clothing is provided
to the resident by the nursing home, it shall be of a proper fit.
c. Have the right to retain and use his personal property in his
immediate living quarters, unless the nursing home can demonstrate
that it is unsafe or impractical to do so.
d. Have the right to receive and send unopened correspondence
and, upon request, to obtain assistance in the reading and writing of
such correspondence.
e. Have the right to unaccompanied access to a telephone at a
reasonable hour, including the right to a private phone at the resident's
expense.
f. Have the right to privacy.
g. Have the right to retain the services of his own personal
physician at his own expense or under a health care plan. Every
resident shall have the right to obtain from his own physician or the
physician attached to the nursing home complete and current
information concerning his medical diagnosis, treatment and prognosis
in terms and language the resident can reasonably be expected to
understand, except when the physician deems it medically inadvisable
to give such information to the resident and records the reason for
such decision in the resident's medical record. In such a case, the
physician shall inform the resident's next-of-kin or guardian. The
resident shall be afforded the opportunity to participate in the planning
of his total care and medical treatment to the extent that his condition
permits. A resident shall have the right to refuse treatment. A
resident shall have the right to refuse to participate in experimental
research, but if he chooses to participate, his informed written consent
must be obtained. Every resident shall have the right to confidentiality
and privacy concerning his medical condition and treatment, except
that records concerning said medical condition and treatment may be
disclosed to another nursing home or health care facility on transfer,
or as required by law or third-party payment contracts.
h. Have the right to unrestricted communication, including
personal visitation with any persons of his choice, at any reasonable
hour.
i. Have the right to present grievances on behalf of himself or
others to the nursing home administrator, State governmental agencies
or other persons without threat of discharge or reprisal in any form or
manner whatsoever. The administrator shall provide all residents or
their guardians with the name, address, and telephone number of the
appropriate State governmental office where complaints may be
lodged. Such telephone number shall be posted in a conspicuous place
near every public telephone in the nursing home.

j. Have the right to a safe and decent living environment and
considerate and respectful care that recognizes the dignity and
individuality of the resident, including the right to expect and receive
appropriate assessment, management and treatment of pain as an
integral component of that person's care consistent with sound nursing
and medical practices.

k. Have the right to refuse to perform services for the nursing
home that are not included for therapeutic purposes in his plan of care
as recorded in his medical record by his physician.

l. Have the right to reasonable opportunity for interaction with
members of the opposite sex. If married, the resident shall enjoy
reasonable privacy in visits by his spouse and, if both are residents of
the nursing home, they shall be afforded the opportunity, where
feasible, to share a room, unless medically inadvisable.

m. Not be deprived of any constitutional, civil or legal right solely
by reason of admission to a nursing home.

(cf: P.L.1976, c.120, s.5)

3. This act shall take effect immediately.

STATEMENT

This bill amends the "bill of rights" for hospital patients and nursing
home residents set forth in section 2 of P.L.1989, c.170
(N.J.S.A.26:2H-12.8) and section 5 of P.L.1976, c.120
(N.J.S.A.30:13-5), respectively, to provide that every person admitted
to an acute care hospital or a nursing home shall have the right to
expect and receive appropriate pain management as an integral
component of that person's care consistent with sound nursing and
medical practices.

This bill is based on the recommendations issued by the New Jersey
Legislative Commission for the Study of Pain Management Policy in
its report to the Governor and the Legislature in March 1999. The
purpose of this bill is to focus the attention of hospital and nursing
home management and health care professional staff on the need to
recognize and appropriately treat patient or resident pain, as
applicable, as an integral component of their care.