

[First Reprint]

ASSEMBLY, No. 3175

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED MAY 15, 2014

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SYNOPSIS

Requires DCA to post on its website information about inspection reports for residential health care facilities, boarding homes, and emergency shelters for the homeless, and requires notifications to DHS and counties.

CURRENT VERSION OF TEXT

As reported by the Assembly Human Services Committee on September 22, 2014, with amendments.

(Sponsorship Updated As Of: 12/16/2014)

1 AN ACT concerning inspection reports for residential health care
2 facilities, boarding homes, and emergency shelters for the
3 homeless, ¹**[and]**,¹ amending P.L.1971, c.136, P.L.1979, c.496,
4 and P.L.1985, c.48 ¹, and supplementing Title 30 of the Revised
5 Statutes¹.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. Section 12 of P.L.1971, c.136 (C.26:2H-12) is amended to
11 read as follows:

12 12. a. No health care service or health care facility shall be
13 operated unless it shall: (1) possess a valid license issued pursuant
14 to this act, which license shall specify the kind or kinds of health
15 care services the facility is authorized to provide; (2) establish and
16 maintain a uniform system of cost accounting approved by the
17 commissioner; (3) establish and maintain a uniform system of
18 reports and audits meeting the requirements of the commissioner;
19 (4) prepare and review annually a long range plan for the provision
20 of health care services; and (5) establish and maintain a centralized,
21 coordinated system of discharge planning which assures every
22 patient a planned program of continuing care and which meets the
23 requirements of the commissioner which requirements shall, where
24 feasible, equal or exceed those standards and regulations
25 established by the federal government for all federally-funded
26 health care facilities but shall not require any person who is not in
27 receipt of State or federal assistance to be discharged against his
28 will.

29 b. (1) Application for a license for a health care service or
30 health care facility shall be made upon forms prescribed by the
31 department. The department shall charge a single, nonrefundable
32 fee for the filing of an application for and issuance of a license and
33 a single, nonrefundable fee for any renewal thereof, and a single,
34 nonrefundable fee for a biennial inspection of the facility, as it shall
35 from time to time fix in rules or regulations; provided, however,
36 that no such licensing fee shall exceed \$10,000 in the case of a
37 hospital and \$4,000 in the case of any other health care facility for
38 all services provided by the hospital or other health care facility,
39 and no such inspection fee shall exceed \$5,000 in the case of a
40 hospital and \$2,000 in the case of any other health care facility for
41 all services provided by the hospital or other health care facility.
42 No inspection fee shall be charged for inspections other than
43 biennial inspections. The application shall contain the name of the
44 health care facility, the kind or kinds of health care service to be

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHU committee amendments adopted September 22, 2014.

1 provided, the location and physical description of the institution,
2 and such other information as the department may require.

3 (2) A license shall be issued by the department upon its findings
4 that the premises, equipment, personnel, including principals and
5 management, finances, rules and bylaws, and standards of health
6 care service are fit and adequate and there is reasonable assurance
7 the health care facility will be operated in the manner required by
8 this act and rules and regulations thereunder.

9 (3) The department shall post on its Internet website each
10 inspection report prepared following an inspection of a residential
11 health care facility, as defined in section 1 of P.L.1953, c.212
12 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
13 seq.), that is performed pursuant to this subsection, along with any
14 other inspection report prepared by or on behalf of the department
15 for such facility.

16 ¹If an inspection reveals a serious health and safety violation at a
17 residential health care facility, the department shall post the
18 inspection report, including the name of the facility and the owner
19 of the facility, on its website no later than 72 hours following the
20 inspection. If a license of a residential health care facility is
21 suspended, the department shall post the suspension on its website
22 no later than 72 hours following the suspension. The department
23 shall update its website to reflect the correction of a serious health
24 and safety violation, and the lifting of a suspension.

25 The department shall notify, as soon as possible, the
26 Commissioner of Human Services, or the commissioner's designee,
27 and the director of the county board of social services or county
28 welfare agency, as appropriate, in the county in which a residential
29 health care facility is located, of a serious health and safety
30 violation at the facility and of any suspension of a license to operate
31 such facility.¹

32 If the inspection responsibilities under this subsection with
33 respect to such facility are transferred or otherwise assigned to
34 another department, that other department shall post on its Internet
35 website each inspection report prepared following an inspection of
36 such facility performed pursuant to this subsection, along with any
37 other inspection report prepared by or on behalf of that department
38 for such facility ¹, and shall comply with the other requirements
39 specified in this subsection¹.

40 c. (Deleted by amendment, P.L.1998, c.43).

41 d. The commissioner may amend a facility's license to reduce
42 that facility's licensed bed capacity to reflect actual utilization at the
43 facility if the commissioner determines that 10 or more licensed
44 beds in the health care facility have not been used for at least the
45 last two succeeding years. For the purposes of this subsection, the
46 commissioner may retroactively review utilization at a facility for a
47 two-year period beginning on January 1, 1990.

1 e. If a prospective applicant for licensure for a health care
2 service or facility that is not subject to certificate of need review
3 pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) so requests, the
4 department shall provide the prospective applicant with a pre-
5 licensure consultation. The purpose of the consultation is to
6 provide the prospective applicant with information and guidance on
7 rules, regulations, standards and procedures appropriate and
8 applicable to the licensure process. The department shall conduct
9 the consultation within 60 days of the request of the prospective
10 applicant.

11 f. Notwithstanding the provisions of any other law to the
12 contrary, an entity that provides magnetic resonance imaging or
13 computerized axial tomography services shall be required to obtain
14 a license from the department to operate those services prior to
15 commencement of services, except that a physician who is
16 operating such services on the effective date of P.L.2004, c.54 shall
17 have one year from the effective date of P.L.2004, c.54 to obtain the
18 license.

19 g. (1) Notwithstanding the provisions of any other law to the
20 contrary, an entity that operates a surgical practice on the effective
21 date of this section of P.L.2009, c.24, as defined in this subsection,
22 shall be required to register with the department within one year of
23 the effective date of P.L.2009, c.24.

24 (2) An entity that has not commenced operation as a surgical
25 practice on the effective date of this section of P.L.2009, c.24, but
26 has filed or files before the 180th day after the effective date of this
27 section of P.L.2009, c.24 its plans, specifications, and required
28 documents with the municipality in which the surgical practice will
29 be located, shall register with the department prior to the
30 commencement of services.

31 (3) As a condition of registration with the department, a surgical
32 practice shall be required to obtain certification by the Centers for
33 Medicare and Medicaid Services as an ambulatory surgery center
34 provider or obtain ambulatory care accreditation from an
35 accrediting body recognized by the Centers for Medicare and
36 Medicaid Services.

37 (4) As a condition of registration with the department, a surgical
38 practice shall be required to report the following information
39 annually: the number of patients served by payment source,
40 including the number of Medicaid-eligible and medically indigent
41 persons served; the number of new patients accepted; and the
42 number of physicians, physician assistants, and advanced practice
43 nurses providing professional services at the surgical practice.

44 (5) As used in this subsection and subsection i. of this section,
45 "surgical practice" means a structure or suite of rooms that has the
46 following characteristics:

47 (a) has no more than one room dedicated for use as an operating
48 room which is specifically equipped to perform surgery, and is

1 designed and constructed to accommodate invasive diagnostic and
2 surgical procedures;

3 (b) has one or more post-anesthesia care units or a dedicated
4 recovery area where the patient may be closely monitored and
5 observed until discharged; and

6 (c) is established by a physician, physician professional
7 association surgical practice, or other professional practice form
8 specified by the State Board of Medical Examiners pursuant to
9 regulation solely for the physician's, association's or other
10 professional entity's private medical practice.

11 "Surgical practice" includes an unlicensed entity that is certified
12 by the Centers for Medicare and Medicaid Services as an
13 ambulatory surgery center provider.

14 (6) Nothing in this subsection shall be construed to limit the
15 State Board of Medical Examiners from establishing standards of
16 care with respect to the practice of medicine.

17 h. An ambulatory care facility licensed to provide surgical and
18 related services shall be required to obtain ambulatory care
19 accreditation from an accrediting body recognized by the Centers
20 for Medicare and Medicaid Services as a condition of licensure by
21 the department.

22 An ambulatory care facility that is licensed to provide surgical
23 and related services on the effective date of this section of
24 P.L.2009, c.24 shall have one year from the effective date of this
25 section of P.L.2009, c.24 to obtain ambulatory care accreditation.

26 i. Beginning on the effective date of this section of P.L.2009,
27 c.24, the department shall not issue a new registration to a surgical
28 practice or a new license to an ambulatory care facility to provide
29 surgical and related services unless:

30 (1) in the case of a registered surgical practice or licensed
31 facility in which a transfer of ownership of the practice or facility is
32 proposed, the commissioner reviews the qualifications of the new
33 owner or owners and approves the transfer;

34 (2) (a) except as provided in subparagraph (b) of this paragraph,
35 in the case of a registered surgical practice or licensed facility for
36 which a relocation of the practice or facility is proposed, the
37 relocation is within 20 miles of the practice's or facility's current
38 location or the relocation is to a "Health Enterprise Zone"
39 designated pursuant to section 1 of P.L.2004, c.139 (C.54A:3-7),
40 there is no expansion in the scope of services provided at the new
41 location from that of the current location, and the commissioner
42 reviews and approves the relocation; or

43 (b) in the case of a licensed facility described in paragraph (5)
44 or (6) of this subsection for which a relocation of the facility is
45 proposed, the commissioner reviews and approves the relocation;

46 (3) the entity is a surgical practice required to be registered
47 pursuant to paragraph (1) of subsection g. of this section and meets
48 the requirements of that subsection;

1 (4) the entity has filed its plans, specifications, and required
2 documents with the Health Care Plan Review Unit of the
3 Department of Community Affairs or the municipality in which the
4 surgical practice or facility will be located, as applicable, on or
5 before the 180th day following the effective date of this section of
6 P.L.2009, c.24;

7 (5) the facility is owned jointly by a general hospital in this
8 State and one or more other parties; or

9 (6) the facility is owned by a hospital or medical school.

10 j. (1) The department shall require an applicant for registration
11 as a surgical practice, as provided in subsection g. of this section, to
12 submit an application for registration in a form and manner
13 prescribed by the department. The applicant shall submit the name
14 and address of the surgical practice that is to be registered, the name
15 of the chief administrator or designated agent of the practice, the
16 names and addresses of all owners of the practice, the scope of
17 services provided at the practice, proof of certification by the
18 Centers for Medicare and Medicaid Services or accreditation from
19 an accrediting body recognized by the Centers for Medicare and
20 Medicaid Services, and such other information as the commissioner
21 deems necessary and as provided by regulation.

22 (2) The registration shall be valid for a one-year period and may
23 be renewed upon submission to the department of an application for
24 renewal.

25 (3) The commissioner may suspend, revoke, or deny a
26 registration if the registrant or applicant, as applicable, is not in
27 compliance with the requirements of this section.

28 (4) No registered surgical practice shall be owned, managed, or
29 operated by any person convicted of a crime relating adversely to
30 the person's capability of owning, managing, or operating the
31 practice.

32 (5) The department may charge a reasonable fee for filing an
33 application for registration and for each renewal thereof.

34 (cf: P.L.2009, c.24, s.1)

35
36 2. Section 9 of P.L.1979, c.496 (C.55:13B-9) is amended to
37 read as follows:

38 9. The commissioner shall ensure that each rooming or
39 boarding house whose owner possesses a valid license is inspected
40 and its records reviewed at least once each year for the purpose of
41 determining whether the owner or operator is complying with
42 standards promulgated pursuant to the provisions of ¹**[this act]**
43 P.L.1979, c.496 (C.55:13B-1 et seq.)¹. If the commissioner
44 determines, as a result of any such inspection and review of records,
45 that an owner or operator is in violation of such standards, he shall
46 serve the owner or operator of the facility with a written notice
47 thereof, which shall fix a date by which the owner or operator shall
48 enter into compliance. The commissioner shall not be required to

1 perform annual inspections of facilities licensed and inspected by a
2 municipality pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), but
3 shall have the authority to oversee and ensure the enforcement of
4 the "Rooming and Boarding House Act of 1979," P.L.1979, c.496
5 (C.55:13B-1 et seq.), and the rules and regulations adopted pursuant
6 thereto in those facilities. A municipality shall file with the
7 commissioner a copy of an inspection report prepared following an
8 inspection of a rooming or boarding house performed by the
9 municipality pursuant to P.L.1993, c.290 (C.40:52-9 et seq.). The
10 commissioner may prescribe a standard inspection report format to
11 be used by the municipality.

12 The Department of Community Affairs shall post on its Internet
13 website each inspection report prepared following an inspection
14 performed on behalf of or filed with the commissioner pursuant to
15 this section, along with any other inspection report prepared by or
16 on behalf of the department for a rooming or boarding house.

17 ¹If an inspection reveals a serious health and safety violation at a
18 rooming or boarding house, the department shall post the inspection
19 report, including the name of the rooming or boarding house and the
20 owner of the rooming or boarding house, on its website no later
21 than 72 hours following the inspection. If a license of a rooming or
22 boarding house is suspended, the department shall post the
23 suspension on its website no later than 72 hours following the
24 suspension. The department shall update its website to reflect the
25 correction of a serious health and safety violation, and the lifting of
26 a suspension.

27 The department shall notify, as soon as possible, the
28 Commissioner of Human Services, or the commissioner's designee,
29 and the director of the county board of social services or county
30 welfare agency, as appropriate, in the county in which a rooming or
31 boarding house is located, of a serious health and safety violation at
32 the rooming or boarding house and of any suspension of a license to
33 operate such rooming or boarding house.¹

34 (cf: P.L.1999, c.241, s.3)

35

36 3. Section 3 of P.L.1985, c.48 (C.55:13C-3) is amended to read
37 as follows:

38 3. Notwithstanding any provision of any other statute or any
39 municipal ordinance other than a zoning ordinance, or regulation to
40 the contrary, the licensing, regulation and inspection of emergency
41 shelters for the homeless in all municipalities of this State and the
42 issuance of all necessary permits, approvals and certificates of
43 occupancy shall be conducted by a public officer designated by the
44 municipality in accordance with the regulations promulgated by the
45 Commissioner of the Department of Community Affairs pursuant to
46 section 5 of **【this act】** P.L.1985, c.48 (C.55:13C-5). A municipality
47 shall file with the commissioner a copy of an inspection report
48 prepared following an inspection conducted by the public officer

1 pursuant to this section. The commissioner may prescribe a
2 standard inspection report format to be used by the public officer.

3 The Department of Community Affairs shall post on its Internet
4 website each inspection report filed with the commissioner pursuant
5 to this section, along with any other inspection report prepared by
6 or on behalf of the department for an emergency shelter for the
7 homeless.

8 ¹If an inspection reveals a serious health and safety violation at
9 an emergency shelter for the homeless, the department shall post the
10 inspection report, including the name of the shelter and the owner
11 of the shelter, on its website no later than 72 hours following the
12 inspection. If a license of an emergency shelter for the homeless is
13 suspended, the department shall post the suspension on its website
14 no later than 72 hours following the suspension. The department
15 shall update its website to reflect the correction of a serious health
16 and safety violation, and the lifting of a suspension.

17 The department shall notify, as soon as possible, the
18 Commissioner of Human Services, or the commissioner's designee,
19 and the director of the county board of social services or county
20 welfare agency, as appropriate, in the county in which an
21 emergency shelter for the homeless is located, of a serious health
22 and safety violation at the shelter and of any suspension of a license
23 to operate such shelter.¹

24 (cf: P.L.1985, c.48, s.3)

25

26 ^{14.} (New section) a. Upon notification of a violation or license
27 suspension pursuant to paragraph (3) of subsection b. of section 12
28 of P.L.1971, c.136 (C.26:2H-12) concerning residential health care
29 facilities or section 9 of P.L.1979, c.496 (C.55:13B-9) concerning
30 rooming or boarding houses, the Commissioner of Human Services,
31 or the commissioner's designee, shall advise the chief executive
32 officer, or the officer's designee, of a psychiatric facility and special
33 psychiatric hospital, as those terms are defined in section 2 of
34 P.L.1987, c.116 (C.30:4-27.2), a general hospital licensed pursuant
35 to P.L.1971, c.136 (C.26:2H-1 et seq.) which has a psychiatric unit,
36 and a State developmental center, of a serious health and safety
37 violation in, or the suspension of a license of, a residential health
38 care facility or rooming or boarding house.

39 b. An individual who is discharged or transferred, as applicable,
40 from a psychiatric facility, special psychiatric hospital, psychiatric
41 unit of a general hospital, or State developmental center shall not be
42 placed in a residential health care facility or rooming or boarding
43 house for which the inspection report for that facility or rooming or
44 boarding house, as appropriate, reveals a serious health and safety
45 violation, until such time as the violation has been corrected and
46 any suspension of a license, if applicable, has been lifted.¹

1 ¹5. (New section) Upon notification of a violation or license
2 suspension of a residential health care facility pursuant to paragraph
3 (3) of subsection b. of section 12 of P.L.1971, c.136 (C.26:2H-12),
4 a rooming or boarding house pursuant to section 9 of P.L.1979,
5 c.496 (C.55:13B-9), or an emergency shelter for the homeless
6 pursuant to section 3 of P.L.1985, c.48 (C.55:13C-3), the
7 Commissioner of Human Services, or the commissioner's designee,
8 and the director of a county board of social services or county
9 welfare agency, as appropriate, shall not place or refer an individual
10 to that residential health care facility, rooming or boarding house,
11 or emergency shelter for the homeless, until such time as the
12 violation has been corrected and any suspension of a license, if
13 applicable, has been lifted.¹

14

15 ¹[4.] 6.¹ This act shall take effect immediately.