

P.L. 1996, CHAPTER 102, *approved August 19, 1996*
Senate, No. 368 (*Second Reprint*)

1 **AN ACT** concerning subacute care units in ²[health care
2 facilities]hospitals² and supplementing Title 26 of the Revised
3 Statutes.

4

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

7

8 1. The Legislature finds and declares that it is in the public interest
9 for the State to facilitate the development of an effective and efficient
10 spectrum of quality health care services; and that the conversion of
11 existing hospital bed capacity to a less intensive and more appropriate
12 level of care for post-acute care patients in order to create subacute
13 care units will ensure an optimal quality of care, promote continuity of
14 care and avoid the duplication of existing health care facility bed
15 capacity through costly new construction.

16

17 2. As used in this act:

18 "Commissioner" means the Commissioner of Health.

19 ²["Health care facility" means a hospital or a skilled nursing home
20 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).]²

21 "Hospital" means an acute care general hospital ²[or a
22 comprehensive rehabilitation hospital]² licensed pursuant to P.L.1971,
23 c.136 (C.26:2H-1 et seq.).

24 "Subacute care" means a comprehensive in-patient program for
25 patients who have had an acute illness, injury or exacerbation of a
26 disease process, have a determined course of treatment prescribed, and
27 do not require intensive diagnostic or intensive invasive procedures,
28 but the patient's condition requires physician direction, intensive
29 nursing care, frequent recurrent patient assessment and review of the
30 clinical course and treatment plan for a period of time, significant use
31 of ancillary medical services and an interdisciplinary approach using

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 22, 1996.

² Assembly AHL committee amendments adopted June 10, 1996 .

1 professional teams of physicians, nurses and other relevant
2 professional disciplines to deliver complex clinical interventions.

3 "Subacute care unit" means a unit located within a ²[health care
4 facility]hospital² which ²[provides]utilizes licensed long-term care
5 beds to provide² subacute care for patients.

6
7 3. a. ²[Notwithstanding the provisions of section 7 of P.L.1971,
8 c.136 (C.26:2H-7) to the contrary, a]A² hospital which proposes to
9 utilize a portion of its licensed bed capacity for the purpose of
10 establishing a subacute care unit ²[is exempted from the requirement
11 of obtaining a certificate of need, subject to the following
12 requirements:]shall apply to the Department of Health for a certificate
13 of need to establish a subacute care unit pursuant to section 7 of
14 P.L.1971, c.136 (C.26:2H-7). The application shall qualify for an
15 expedited review as provided by regulation of the department and shall
16 be processed within 90 days. In addition, the hospital shall be subject
17 to the following requirements:²

18 (1) the ²[unit shall comply with all State regulations governing its
19 operations, and shall be subject to]subacute care unit's beds shall be
20 licensed by the Department of Health as long-term care beds and shall
21 meet all applicable State licensing and federal certification
22 requirements, including² the physical requirements for skilled nursing
23 beds under the federal Medicare program established pursuant to
24 Pub.L.89-97 (42 U.S.C. §1395 et seq.), with reasonable waiver
25 provisions as determined by the commissioner or the federal Health
26 Care Financing Administration, as appropriate;

27 (2) the ²[average]maximum² length of stay in the unit shall not
28 exceed ²[20]eight² days;

29 (3) the unit shall be certified to participate in the Medicare
30 program as a skilled nursing facility;

31 (4) the unit shall be comprised of not more than ²[15%]7%² of the
32 hospital's licensed ²medical-surgical² bed capacity or ²[24]12² beds,
33 whichever is greater; ²[and]²

34 (5) the hospital's licensed ²[acute care] medical-surgical² bed
35 capacity shall be reduced, by the commissioner, by the number of beds
36 used to establish a subacute care unit under the provisions of this
37 section. ²Long-term care beds in a hospital's subacute care unit shall
38 not be transferred to, or combined with, a subacute care unit in
39 another hospital. Bed limitations for a hospital shall include both
40 conversions of existing acute care beds and any purchases or other
41 acquisitions or rentals of beds to be used by a hospital for the
42 provision of subacute care under this act;

43 (6) notwithstanding the provisions of section 10 of P.L.1971, c.136
44 (C.26:2H-10) to the contrary, the hospital shall be required to pay an
45 application fee of \$5,000 for a certificate of need to establish a
46 subacute care unit; and

1 (7) the hospital shall be subject to the fee for the filing of an
2 application for a license for long-term care beds and any renewal
3 thereof as established by the Department of Health pursuant to section
4 12 of P.L.1971, c.136 (C.26:2H-12)².

5 b. ¹[Long-term care beds in a subacute care unit shall be subject to
6 Medicaid occupancy level requirements established pursuant to section
7 2 of P.L.1985, c.303 (C.10:5-12.2), but, notwithstanding the
8 provisions of section 2 of P.L.1985, c.303 (C.10:5-12.2) to the
9 contrary, a hospital shall be required to maintain a Medicaid
10 occupancy level in a subacute care unit equal to the monthly average
11 Medicaid occupancy level of the hospital's medical/surgical beds.] ²[A
12 subacute care unit shall not discriminate against a patient on the basis
13 of a patient's ability to pay or source of payment for the care provided
14 in the unit.¹]Subacute care shall not be covered by the Medicaid
15 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).²

16 The long-term care beds in a subacute care unit shall not be included
17 in long-term care bed inventories for certificate of need review
18 purposes.

19
20 4. a. The determination of whether a hospital subacute care unit
21 or a skilled nursing or comprehensive rehabilitation hospital or other
22 type of facility is the preferred non-acute care placement for a patient
23 shall be based on clinical considerations and the preference of the
24 patient and his family; except that, as a condition of licensure of a
25 hospital subacute care unit, clinically stable patients who are being
26 treated in the diagnostic categories listed in paragraph (1) of this
27 subsection and who meet the criteria for inpatient rehabilitation
28 hospital care listed in paragraph (2) of this subsection, except as may
29 be recommended by the comprehensive rehabilitation hospital or acute
30 care hospital that has licensed comprehensive rehabilitation beds
31 pursuant to subsection b. of this section, shall not be placed in a
32 hospital subacute care unit.

33 (1) Diagnostic categories include patients with: strokes, congenital
34 anomalies, major multiple trauma, polyarthritis including rheumatoid
35 arthritis, neurological disorders including multiple sclerosis, motor
36 neuron diseases, polyneuropathy, muscular dystrophy and Parkinson's
37 disease, brain injury including traumatic or non-traumatic, spinal cord
38 injury, amputations, joint replacements, fracture of the femur including
39 hip fracture and burns.

40 (2) Criteria for inpatient rehabilitation hospital care include
41 patients who meet or require all of the following:

42 (a) close medical supervision by a physician with specialized
43 training or experience in rehabilitation;

44 (b) 24-hour rehabilitation nursing;

45 (c) a relatively intense level of rehabilitation services;

46 (d) a multi-disciplinary team approach to the delivery of the

- 1 program;
- 2 (e) a coordinated program of care;
- 3 (f) significant practical improvement is expected in a reasonable
4 period of time; and
- 5 (g) realistic goals of self-care or independence in activities of daily
6 living.
- 7 b. An acute care hospital shall forward information on clinically
8 stable patients to a licensed comprehensive rehabilitation hospital or
9 an acute care hospital that has licensed comprehensive rehabilitation
10 beds. The licensed comprehensive rehabilitation hospital or the acute
11 care hospital that has licensed comprehensive rehabilitation beds shall
12 then make a recommendation, signed by a physician with specialized
13 training or experience in rehabilitation, regarding placement within
14 24-hours of receipt of the information from the acute care hospital and
15 which, together with the concurring or alternate
16 ²[recommedation]recommendation² from a case manager at the acute
17 care hospital, shall be forwarded to the patient's attending physician.
- 18 c. A patient in a skilled nursing home who is admitted to ¹and
19 discharged from¹ an acute care hospital shall not be [~~discharged~~]
20 admitted¹ to the hospital's subacute care unit unless the skilled nursing
21 home is unable to readmit the patient within 24 hours after notification
22 by the acute care hospital that the patient is ready for readmission to
23 the skilled nursing home. If a patient is admitted to the hospital's
24 subacute care unit because that patient could not be readmitted to the
25 skilled nursing home, the patient shall be discharged to the skilled
26 nursing facility of origin as soon as the home agrees to accept the
27 patient.
- 28 d. In addition to the reports required in section 5 of P.L. ..., c. ...
29 (C.)(now pending before the Legislature as this bill), an acute
30 care hospital with a subacute care unit shall file an annual report with
31 the Department of Health demonstrating compliance with the
32 provisions of this section. The report shall include information on the
33 number of patients who were admitted to the hospital's subacute care
34 unit when the admission was contrary to the recommendation of a
35 physician with specialized training or experience in rehabilitation,
36 provided however, that the recommendation of the physician was for
37 immediate placement of the patient, that is, within 24-hours, in a
38 licensed comprehensive rehabilitation hospital or an acute care hospital
39 that has licensed comprehensive rehabilitation beds. The report also
40 shall include information on the number of patients admitted to the
41 hospital's subacute care unit pursuant to subsection c. of this section
42 because the patient could not be readmitted to a skilled nursing home.
- 43 e. The commissioner shall develop a procedure to assess an acute
44 care hospital with a hospital subacute care unit's compliance with the
45 provisions of this section ²and section 3 of this act².
- 46 f. Failure to comply with the provisions of this section ²[shall] or

1 section 3 of this act may² result in the suspension or revocation of a
2 hospital subacute care license.

3 ¹g. If an acute care hospital which has a subacute care unit plans
4 to transfer a patient from the hospital to the subacute care unit, the
5 hospital shall discharge the patient from the hospital and admit the
6 patient to the subacute care unit.¹ ²Each admission to a subacute care
7 unit shall be subject to a \$35 health care quality fee to be paid to the
8 Department of Health, the revenues from which shall be deposited in
9 a dedicated fund to be established by the commissioner, and designated
10 as the "Health Care Quality Monitoring Fund."²

11

12 5. a. A subacute care unit shall be subject only to existing State
13 long-term care facility licensure requirements and federal regulations
14 governing Medicare participation.

15 b. A ²[health care facility]hospital² that has or converts beds for
16 subacute care shall file with the Department of Health quarterly
17 reports showing each patient admitted to the subacute care unit during
18 the quarter by diagnosis ²[and]² the patient's length of stay in the
19 unit², and any other information required by the department by
20 regulation².

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22 6. This act shall take effect immediately, and shall apply to
23 subacute care units created after the effective date.

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27

28 Permits establishment of subacute care units in acute care hospitals.