

## CHAPTER 102

**AN ACT** concerning subacute care units in hospitals and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-7.4 Findings, declarations.

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

C.26:2H-7.5 Definitions regarding subacute care units.

2. As used in this act:

"Commissioner" means the Commissioner of Health.

"Hospital" means an acute care general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Subacute care" means a comprehensive in-patient program for patients who have had an acute illness, injury or exacerbation of a disease process, have a determined course of treatment prescribed, and do not require intensive diagnostic or intensive invasive procedures, but the patient's condition requires physician direction, intensive nursing care, frequent recurrent patient assessment and review of the clinical course and treatment plan for a period of time, significant use of ancillary medical services and an interdisciplinary approach using professional teams of physicians, nurses and other relevant professional disciplines to deliver complex clinical interventions.

"Subacute care unit" means a unit located within a hospital which provides utilizes licensed long-term care beds to provide subacute care for patients.

C.26:2H-7.6 Certificate of need for subacute care unit; requirements.

3. a. A hospital which proposes to utilize a portion of its licensed bed capacity for the purpose of establishing a subacute care unit shall apply to the Department of Health for a certificate of need to establish a subacute care unit pursuant to section 7 of P.L.1971, c.136 (C.26:2H-7). The application shall qualify for an expedited review as provided by regulation of the department and shall be processed within 90 days. In addition, the hospital shall be subject to the following requirements:

(1) the subacute care unit's beds shall be licensed by the Department of Health as long-term care beds and shall meet all applicable State licensing and federal certification requirements, including the physical requirements for skilled nursing beds under the federal Medicare program established pursuant to Pub.L.89-97 (42 U.S.C. s.1395 et seq.), with reasonable waiver provisions as determined by the commissioner or the federal Health Care Financing Administration, as appropriate;

(2) the maximum length of stay in the unit shall not exceed eight days;

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

(4) the unit shall be comprised of not more than 7% of the hospital's licensed medical-surgical bed capacity or 12 beds, whichever is greater;

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

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

(7) the hospital shall be subject to the fee for the filing of an application for a license for long-term care beds and any renewal thereof as established by the Department of Health

pursuant to section 12 of P.L.1971, c.136 (C.26:2H-12).

b. Subacute care shall not be covered by the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The long-term care beds in a subacute care unit shall not be included in long-term care bed inventories for certificate of need review purposes.

C.26:2H-7.7 Patient diagnostic categories; inpatient rehabilitation criteria; admission to subacute care, requirements.

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

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

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

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

(b) 24-hour rehabilitation nursing;

(c) a relatively intense level of rehabilitation services;

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

(e) a coordinated program of care;

(f) significant practical improvement is expected in a reasonable period of time; and

(g) realistic goals of self-care or independence in activities of daily living.

b. An acute care hospital shall forward information on clinically stable patients to a licensed comprehensive rehabilitation hospital or an acute care hospital that has licensed comprehensive rehabilitation beds. The licensed comprehensive rehabilitation hospital or the acute care hospital that has licensed comprehensive rehabilitation beds shall then make a recommendation, signed by a physician with specialized training or experience in rehabilitation, regarding placement within 24-hours of receipt of the information from the acute care hospital and which, together with the concurring or alternate recommendation from a case manager at the acute care hospital, shall be forwarded to the patient's attending physician.

c. A patient in a skilled nursing home who is admitted to and discharged from an acute care hospital shall not be admitted to the hospital's subacute care unit unless the skilled nursing home is unable to readmit the patient within 24 hours after notification by the acute care hospital that the patient is ready for readmission to the skilled nursing home. If a patient is admitted to the hospital's subacute care unit because that patient could not be readmitted to the skilled nursing home, the patient shall be discharged to the skilled nursing facility of origin as soon as the home agrees to accept the patient.

d. In addition to the reports required in section 5 of P.L.1996, c.102 (C.26:2H-7.8), an acute care hospital with a subacute care unit shall file an annual report with the Department of Health demonstrating compliance with the provisions of this section. The report shall include information on the number of patients who were admitted to the hospital's subacute care unit when the admission was contrary to the recommendation of a physician with specialized training or experience in rehabilitation, provided however, that the recommendation of the physician was for immediate placement of the patient, that is, within 24-hours, in a licensed comprehensive rehabilitation hospital or an acute care hospital that has licensed comprehensive rehabilitation beds. The report also shall include information on the number of patients admitted to the hospital's subacute care unit pursuant to subsection c. of this section because the patient could not be readmitted to a skilled nursing home.

e. The commissioner shall develop a procedure to assess an acute care hospital with a hospital subacute care unit's compliance with the provisions of this section and section 3 of this act.

f. Failure to comply with the provisions of this section or section 3 of this act may result in the suspension or revocation of a hospital subacute care license.

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

C.26:2H-7.8 Licensure requirements; quarterly reports.

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

b. A hospital that has or converts beds for subacute care shall file with the Department of Health quarterly reports showing each patient admitted to the subacute care unit during the quarter by diagnosis, the patient's length of stay in the unit, and any other information required by the department by regulation.

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

Approved August 19, 1996.