

[First Reprint]  
**SENATE, No. 368**

**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators **MATHEUSSEN** and **LYNCH**

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

3

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

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

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16 2. As used in this act:

17 "Commissioner" means the Commissioner of Health.

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

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

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

**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:

<sup>1</sup> Senate SHH committee amendments adopted January 22, 1996.

1 professional disciplines to deliver complex clinical interventions.

2 "Subacute care unit" means a unit located within a health care  
3 facility which provides subacute care for patients.

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5 3. a. Notwithstanding the provisions of section 7 of P.L.1971,  
6 c.136 (C.26:2H-7) to the contrary, a hospital which proposes to utilize  
7 a portion of its licensed bed capacity for the purpose of establishing a  
8 subacute care unit is exempted from the requirement of obtaining a  
9 certificate of need, subject to the following requirements:

10 (1) the unit shall comply with all State regulations governing its  
11 operations, and shall be subject to the physical requirements for skilled  
12 nursing beds under the federal Medicare program established pursuant  
13 to Pub.L.89-97 (42 U.S.C. §1395 et seq.), with reasonable waiver  
14 provisions as determined by the commissioner or the federal Health  
15 Care Financing Administration, as appropriate;

16 (2) the average length of stay in the unit shall not exceed 20 days;

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

19 (4) the unit shall be comprised of not more than 15% of the  
20 hospital's licensed bed capacity or 24 beds, whichever is greater; and

21 (5) the hospital's licensed acute care bed capacity shall be reduced,  
22 by the commissioner, by the number of beds used to establish a  
23 subacute care unit under the provisions of this section.

24 b. <sup>1</sup>[Long-term care beds in a subacute care unit shall be subject to  
25 Medicaid occupancy level requirements established pursuant to section  
26 2 of P.L.1985, c.303 (C.10:5-12.2), but, notwithstanding the  
27 provisions of section 2 of P.L.1985, c.303 (C.10:5-12.2) to the  
28 contrary, a hospital shall be required to maintain a Medicaid  
29 occupancy level in a subacute care unit equal to the monthly average  
30 Medicaid occupancy level of the hospital's medical/surgical beds.] A  
31 subacute care unit shall not discriminate against a patient on the basis  
32 of a patient's ability to pay or source of payment for the care provided  
33 in the unit.<sup>1</sup> The long-term care beds in a subacute care unit shall not  
34 be included in long-term care bed inventories for certificate of need  
35 review purposes.

36

37 4. a. The determination of whether a hospital subacute care unit  
38 or a skilled nursing or comprehensive rehabilitation hospital or other  
39 type of facility is the preferred non-acute care placement for a patient  
40 shall be based on clinical considerations and the preference of the  
41 patient and his family; except that, as a condition of licensure of a  
42 hospital subacute care unit, clinically stable patients who are being  
43 treated in the diagnostic categories listed in paragraph (1) of this  
44 subsection and who meet the criteria for inpatient rehabilitation  
45 hospital care listed in paragraph (2) of this subsection, except as may  
46 be recommended by the comprehensive rehabilitation hospital or acute

1 care hospital that has licensed comprehensive rehabilitation beds  
2 pursuant to subsection b. of this section, shall not be placed in a  
3 hospital subacute care unit.

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

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

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

15 (b) 24-hour rehabilitation nursing;

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

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

19 (e) a coordinated program of care;

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

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

24 b. An acute care hospital shall forward information on clinically  
25 stable patients to a licensed comprehensive rehabilitation hospital or  
26 an acute care hospital that has licensed comprehensive rehabilitation  
27 beds. The licensed comprehensive rehabilitation hospital or the acute  
28 care hospital that has licensed comprehensive rehabilitation beds shall  
29 then make a recommendation, signed by a physician with specialized  
30 training or experience in rehabilitation, regarding placement within  
31 24-hours of receipt of the information from the acute care hospital and  
32 which, together with the concurring or alternate recommendation from  
33 a case manager at the acute care hospital, shall be forwarded to the  
34 patient's attending physician.

35 c. A patient in a skilled nursing home who is admitted to <sup>1</sup>and  
36 discharged from<sup>1</sup> an acute care hospital shall not be <sup>1</sup>[discharged]  
37 admitted<sup>1</sup> to the hospital's subacute care unit unless the skilled nursing  
38 home is unable to readmit the patient within 24 hours after notification  
39 by the acute care hospital that the patient is ready for readmission to  
40 the skilled nursing home. If a patient is admitted to the hospital's  
41 subacute care unit because that patient could not be readmitted to the  
42 skilled nursing home, the patient shall be discharged to the skilled  
43 nursing facility of origin as soon as the home agrees to accept the  
44 patient.

45 d. In addition to the reports required in section 5 of P.L. ..., c. ...  
46 (C. ....)(now pending before the Legislature as this bill), an acute

1 care hospital with a subacute care unit shall file an annual report with  
2 the Department of Health demonstrating compliance with the  
3 provisions of this section. The report shall include information on the  
4 number of patients who were admitted to the hospital's subacute care  
5 unit when the admission was contrary to the recommendation of a  
6 physician with specialized training or experience in rehabilitation,  
7 provided however, that the recommendation of the physician was for  
8 immediate placement of the patient, that is, within 24-hours, in a  
9 licensed comprehensive rehabilitation hospital or an acute care hospital  
10 that has licensed comprehensive rehabilitation beds. The report also  
11 shall include information on the number of patients admitted to the  
12 hospital's subacute care unit pursuant to subsection c. of this section  
13 because the patient could not be readmitted to a skilled nursing home.

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

17 f. Failure to comply with the provisions of this section shall result  
18 in the suspension or revocation of a hospital subacute care license.

19 <sup>1</sup>g. If an acute care hospital which has a subacute care unit plans  
20 to transfer a patient from the hospital to the subacute care unit, the  
21 hospital shall discharge the patient from the hospital and admit the  
22 patient to the subacute care unit.<sup>1</sup>

23

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

27 b. A health care facility that has or converts beds for subacute care  
28 shall file with the Department of Health quarterly reports showing  
29 each patient admitted to the subacute care unit during the quarter by  
30 diagnosis and the patient's length of stay in the unit.

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

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38 Permits establishment of subacute care units in health care facilities;  
39 exempts hospital-based units from certificate of need requirement  
40 under certain circumstances.