

SENATE, No. 394

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senator BRYANT

1 AN ACT concerning hospice care, amending P.L.1992, c.160 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:

6  
7 1. (New section) As used in this act:

8 "Commissioner" means the Commissioner of Health.

9 "Department" means the Department of Health.

10 "Hospice care program" means a coordinated program of home,  
11 outpatient, and inpatient care and services that is operated by a person  
12 or public agency and that provides care and services to hospice  
13 patients and to hospice patients' families, through a medically directed  
14 interdisciplinary team, under interdisciplinary plans of care in order to  
15 meet the physical, psychological, social, spiritual, and other special  
16 needs that are experienced during the final stages of illness, dying, and  
17 bereavement. A hospice care program shall provide the following care  
18 and services:

19 a. Nursing care by or under the supervision of a registered  
20 professional nurse;

21 b. Physical, occupational, or speech or language therapy;

22 c. Medical social services by a licensed social worker under the  
23 direction of a physician;

24 d. Services of a home health aide;

25 e. Medical supplies, including drugs and biologicals, and the use of  
26 medical appliances;

27 f. Physician's services;

28 g. Short-term inpatient care, including both palliative and respite  
29 care and procedures;

30 h. Counseling for hospice patients and hospice patients' families;

31 i. Services of volunteers under the direction of the provider of the  
32 hospice care program; and

33 j. Bereavement services for hospice patients' families.

34 "Hospice patient" means a patient who has been diagnosed as

**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.**

1 terminally ill, has an anticipated life expectancy of six months or less,  
2 and has voluntarily requested and is receiving care from a person or  
3 public agency licensed pursuant to this act to provide a hospice care  
4 program.

5 "Hospice patient's family" means a hospice patient's immediate  
6 family members, including a spouse, brother, sister, child, or parent,  
7 and any other relative or individual who has significant personal ties  
8 to the patient and who is designated as a member of the patient's  
9 family by mutual agreement of the patient, the relative or individual,  
10 and the patient's interdisciplinary team.

11 "Interdisciplinary team" means a working unit composed of  
12 professional and lay persons that includes at least a physician, a  
13 registered professional nurse, a licensed social worker, a member of  
14 the clergy or a counselor, and a volunteer.

15 "Palliative care" means treatment directed at controlling pain,  
16 relieving other symptoms, and focusing on the special needs of a  
17 hospice patient and the hospice patient's family as they experience the  
18 stress of the dying process rather than treatment aimed at investigation  
19 and intervention for the purpose of cure or prolongation of life.

20 "Physician" means a person licensed to practice medicine and  
21 surgery pursuant to chapter 9 of Title 45 of the Revised Statutes.

22 "Attending physician" means the physician identified by the hospice  
23 patient or the hospice patient's family as having primary responsibility  
24 for the hospice patient's medical care.

25

26 2. (New section) a. A hospice care program shall not operate in  
27 this State unless it: possesses a valid license issued pursuant to this  
28 act; establishes and maintains a uniform system of cost accounting  
29 approved by the commissioner; and establishes and maintains a  
30 uniform system of reports and audits meeting the requirements of the  
31 commissioner.

32 b. Application for a license for a hospice care program shall be  
33 made upon forms prescribed by the department. The department shall  
34 charge such nonrefundable fees for the filing of an application for a  
35 license and any renewal thereof, as it shall from time to time fix in  
36 regulations. The application shall contain the name of the hospice care  
37 program and such other information as the department may require.

38 c. A license shall be issued by the department upon its finding that  
39 the premises, equipment, personnel, including principals and  
40 management, finances, rules and bylaws, and standards are fit and  
41 adequate and there is reasonable assurance the hospice care program  
42 will be operated in the manner required by this act.

43 d. At the request of the commissioner, hospice care programs shall  
44 furnish to the department such reports and information as it may  
45 require to effectuate the purposes of this act, excluding confidential  
46 communications from patients.

1 e. A nursing home licensed pursuant to the "Health Care Facilities  
2 Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) that does not hold  
3 itself out to be a hospice, does not hold itself out as providing a  
4 hospice care program, does not use the term hospice to describe or  
5 refer to its activities or facilities, and does not provide all of the  
6 services enumerated in section 1 of this act is not subject to the  
7 licensing provisions of this act.

8  
9 3. (New section) a. A person or public agency licensed pursuant to  
10 section 2 of this act to provide a hospice care program shall:

11 (1) Provide a planned and continuous hospice care program, the  
12 medical components of which shall be under the direction of a  
13 physician;

14 (2) Ensure that care is available 24 hours a day, seven days a week;

15 (3) Establish an interdisciplinary plan of care for each hospice  
16 patient and his family that:

17 (a) Is coordinated by one designated individual who shall ensure  
18 that all components of the plan of care are addressed and implemented;

19 (b) Addresses maintenance of patient-family participation in  
20 decision making; and

21 (c) Is periodically reviewed by the patient's attending physician and  
22 by the patient's interdisciplinary team.

23 (4) Have one or more interdisciplinary teams that provide or  
24 supervise the provision of care and establish the policies governing the  
25 provision of the care;

26 (5) Not discontinue care because of a hospice patient's inability to  
27 pay for the care;

28 (6) Maintain central clinical records on all hospice patients under its  
29 care; and

30 (7) Provide care in individuals' homes, on an outpatient basis, and  
31 on a short-term inpatient basis.

32 b. A provider of a hospice care program may arrange for another  
33 person or public agency to furnish components of the hospice care  
34 program pursuant to a written contract. When a provider of a hospice  
35 care program arranges for another person or public agency to furnish  
36 components of the hospice care program to its patient, the care shall  
37 be provided pursuant to a written contract under which:

38 (1) The provider of a hospice care program furnishes to the  
39 contractor a copy of the hospice patient's interdisciplinary plan of care  
40 that is established under paragraph (3) of subsection a. of this section  
41 and specifies the care that is to be furnished by the contractor;

42 (2) The regimen described in the established plan of care is  
43 continued while the hospice patient receives care from the contractor,  
44 subject to the patient's needs, and with approval of the coordinator of  
45 the interdisciplinary team designated pursuant to subparagraph (a) of  
46 paragraph (3) of subsection a. of this section;

1 (3) All care, treatment, and services furnished by the contractor are  
2 entered into the hospice patient's medical records.

3 (4) The designated coordinator of the interdisciplinary team  
4 ensures conformance with the established plan of care; and

5 (5) A copy of the contractor's medical record and discharge  
6 summary is retained as part of the hospice patient's medical records.

7 c. A hospital contracting for inpatient care shall be encouraged to  
8 offer temporary limited privileges to the hospice patient's attending  
9 physician while the hospice patient is receiving inpatient care from the  
10 hospital.

11

12 4. (New section) a. In addition to authority granted to the  
13 department by this act or any other law, the department, after serving  
14 the licensee with specific charges in writing, may deny, place on  
15 probationary or provisional license, revoke or suspend any license  
16 granted under authority of this act to any person or public agency  
17 violating or failing to comply with the provisions of this act.

18 b. Notice of the revocation, suspension, or denial of a license, or  
19 the placing on probationary or provisional license, together with a  
20 specification of charges, shall be served on the applicant or licensee,  
21 personally or sent by certified mail to the address of record. The  
22 revocation, suspension, or denial of a license, or the placing on  
23 probationary or provisional license shall become effective 30 days after  
24 mailing, unless the applicant or licensee, within the 30-day period,  
25 meets the requirements of the department or files with the department  
26 a written answer to the charges and gives written notice to the  
27 department of its desire for a hearing in which case the department's  
28 action may be held in abeyance until the hearing has been concluded  
29 and a final decision rendered.

30 c. The department shall provide for a prompt hearing on the  
31 question of the revocation, suspension, or denial of a license, or the  
32 placing on probationary or provisional license. The procedure  
33 governing the hearings shall be in accordance with the rules and  
34 regulations of the department.

35

36 5. (New section) a. A person or public agency who operates a  
37 hospice care program without first obtaining the license required by  
38 this act, or who operates a hospice care program after revocation or  
39 suspension of license, shall be liable to a penalty of not more than  
40 \$1,000 as provided for by regulation for each day of operation in  
41 violation hereof for the first offense and for any subsequent offense.

42 A person or public agency who violates any provision of this act as  
43 it pertains to the care of patients and physical plant standards shall be  
44 subject to a penalty of not more than \$2,500 as provided for by  
45 regulation for each day in violation of this act. Upon notification to the  
46 hospice care program of such violations as pertain to the care of

1 patients or to the hazardous or unsafe condition existing in or upon the  
2 structure in which the hospice care program is maintained, the  
3 commissioner shall allow the facility 72 hours in which to correct the  
4 violation and if at the end of the period the violation is not corrected  
5 and it poses an imminent threat to the health, safety or welfare of the  
6 public or of the patients, he may summarily suspend the license of the  
7 hospice care program without a hearing and may order immediate  
8 correction of the violation as a prerequisite of reinstatement of  
9 licensure. A licensee that is subject to summary suspension shall have  
10 the right to apply to the commissioner for a hearing. The hearing shall  
11 be held and a decision rendered within 48 hours of receipt of the  
12 request. If the commissioner rules against the licensee, the licensee  
13 has the right to apply for injunctive relief against the commissioner's  
14 order. Jurisdiction of the injunctive relief shall be in the Superior Court  
15 of New Jersey. Nothing herein shall be construed to prevent the  
16 commissioner from thereafter suspending or revoking the license in  
17 accordance with the procedure set forth in this act. If, within one year  
18 after the violation, the person or public agency is found guilty of the  
19 same violation, the penalties set forth in this section shall be doubled,  
20 and if there is a third violation within such time, the penalties shall be  
21 tripled.

22 b. The penalties provided for in this section shall be recovered in  
23 a summary civil proceeding, brought in the name of the State in the  
24 Superior Court pursuant to "the penalty enforcement law," N.J.S.  
25 2A:58-1 et seq.

26 c. The commissioner may accept from any licensee an offer in  
27 compromise in such amount as may, in his judgment, be proper under  
28 the circumstances in lieu of suspension of a license. In no case shall  
29 the penalty be compromised for a sum less than \$250 for the first  
30 offense and \$500 for the second and each subsequent offense.

31 d. The department may maintain an action in the name of the State  
32 to enjoin any person or public agency from continuing to conduct,  
33 manage or operate a hospice care program without a license, or after  
34 suspension or revocation of license, or in violation of rules and  
35 regulations promulgated hereunder.

36  
37 6. (New section) a. There is established the Hospice Care  
38 Programs Advisory Board. The advisory board shall consist of 11  
39 members, including the commissioner, or his designee, who shall serve  
40 as a nonvoting, ex officio member. The 10 public members shall be  
41 residents of this State and shall be appointed by the Governor, with the  
42 advice and consent of the Senate. The public members of the advisory  
43 council shall include: two persons experienced in hospice care  
44 programs; one physician with clinical experience in oncology or  
45 terminal illnesses; one registered professional nurse; one recognized  
46 member of the clergy; one person with experience in the area of

1 hospital administration; one person with experience with health  
2 insurance; one person with experience in the administration of a home  
3 health agency; one licensed social worker; and one person with  
4 experience in long-term care administration.

5 b. The term of office of each public member shall be three years,  
6 but of the members first appointed, three shall be appointed for a term  
7 of one year, three shall be appointed for a term of two years and four  
8 shall be appointed for a term of three years. A member shall hold  
9 office for the term of his appointment and until his successor has been  
10 appointed and qualified. All vacancies shall be filled for the balance  
11 of the unexpired term in the same manner as the original appointment.  
12 A member of the advisory board is eligible for reappointment.

13 c. The public members of the advisory board shall not receive any  
14 compensation for their services, but shall be reimbursed for the actual  
15 and necessary expenses incurred in the performance of their duties as  
16 members of the advisory board, within the limits of funds available to  
17 the advisory board.

18 d. The members shall annually elect a chairman and a  
19 vice-chairman from among the public members and may select a  
20 secretary, who need not be a member of the advisory board.

21 e. A majority of the members of the advisory board shall constitute  
22 a quorum for the transaction of business at any meeting.

23 f. The department shall provide such staff and assistance as the  
24 advisory board requires to carry out its work.

25

26 7. (New section) The commissioner, in consultation with the  
27 Hospice Care Programs Advisory Board, shall promulgate rules in  
28 accordance with the "Administrative Procedure Act, "P.L.1968, c.410  
29 (C.52:14B-1 et seq.) to effectuate the provisions of this act, including  
30 but not limited to: (1) establishing standards and procedures relating  
31 to the licensing of hospice care programs and the suspension and  
32 revocation of licenses; (2) establishing license fees and renewal fees  
33 for hospice care programs; and (3) providing for the granting of  
34 licenses to hospice care programs to persons and public agencies that  
35 are accredited or certified to provide hospice care programs by an  
36 entity whose standards for accreditation or certification equal or  
37 exceed those provided for licensure under this act.

38

39 8. Section 19 of P.L.1992, c.160 (C.26:2H-7a) is amended to read  
40 as follows:

41 19. Notwithstanding the provisions of section 7 of P.L.1971, c.136  
42 (C.26:2H-7) to the contrary, the following are exempt from the  
43 certificate of need requirement:

44 Community-based primary care centers;

45 Outpatient drug and alcohol services;

46 Ambulance and invalid coach services;

- 1 Mental health services which are non-bed related outpatient  
2 services;
- 3 Changes in residential health care facility services;
- 4 Mandatory renovations to existing facilities;
- 5 Mandatory replacement of fixed or moveable equipment;
- 6 Transfer of ownership interest except in the case of an acute care  
7 hospital, or a long-term care facility in which the owner does not  
8 satisfy the Department of Health's review of the owner's prior  
9 operating experience as well as any requirements established by the  
10 federal government pursuant to Titles XVIII and XIX of the Social  
11 Security Act;
- 12 Change of site for approved certificate of need within the same  
13 county;
- 14 Relocation or replacement of a health care facility within the same  
15 county, except for an acute care hospital;
- 16 Continuing care retirement communities authorized pursuant to  
17 P.L.1986, c.103 (C.52:27D-330 et seq.);
- 18 Acquisition by a hospital of a magnetic resonance imager that is  
19 already in operation in the State by another health care provider or  
20 entity;
- 21 Adult day health care facilities;
- 22 Pediatric day health care facilities; [and]
- 23 Chronic renal dialysis facilities ; and
- 24 Hospice care programs licensed pursuant to section 2 of P.L. , c.  
25 (C. )(pending before the Legislature as this bill).  
26 (cf: P.L.1992, c.160, s.19)
- 27

28 9. This act shall take effect 90 days after the date of enactment.  
29  
30

#### 31 STATEMENT 32

33 This bill establishes a licensing program in the Department of  
34 Health for hospice care programs. A "hospice care program" is  
35 defined as a coordinated program of home, outpatient, and inpatient  
36 care and services that provides care and services to meet the physical,  
37 psychological, social, spiritual, and other special needs that are  
38 experienced during the final stages of illness, dying, and bereavement.  
39 A hospice care program will be required to provide the following care  
40 and services: nursing care; physical, occupational, or speech or  
41 language therapy; medical social services; home health aide services;  
42 medical supplies and the use of medical appliances; physician's  
43 services; short-term inpatient care; counseling services; services of  
44 volunteers; and bereavement services.

45 Pursuant to the bill, a hospice care program will not be permitted  
46 to operate without a valid license from the department. The

1 department has the authority to issue or deny a license, place on  
2 probationary or provisional license, or revoke or suspend any license  
3 of a person or public agency who violates or fails to comply with the  
4 provisions of this bill. In addition, the department may impose  
5 monetary penalties on hospice care programs that operate without first  
6 obtaining a license, that operate a hospice care program after  
7 revocation or suspension of a license, or that violate any provision of  
8 this act as it pertains to the care of the patient and the physical plant  
9 standards.

10 The bill also establishes a Hospice Care Programs Advisory Board  
11 which will advise the Commissioner of Health in promulgating rules  
12 and regulations to effectuate the purposes of the bill.

13 In addition, the bill specifically exempts hospice care programs from  
14 the certificate of need requirement.

15

16

17

\_\_\_\_\_

18

19 Establishes a licensing program for hospice care programs.

WITHDRAWN