

26:2H-14

1/15/87

LEGISLATIVE HISTORY CHECKLIST

NJSA: 26:2H-14
and 26:2H-16

(Health Care Facilities
Planning Act--amend-
ments)

LAWS OF: 1986

CHAPTER 96

BILL NO: S1971

Sponsor(s): Codey

Date Introduced: March 24, 1986

Committee: Assembly: -----

Senate: Institutions, Health and Welfare

Amended during passage: Yes Substituted for A2288 (not attached since identical to S1971). Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 19, 1986

Senate: June 12, 1986

Date of Approval: August 27, 1986

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly floor amendments, adopted 6-19-86 (with statement)

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: Yes

Hearings: No

(over)

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LEGISLATIVE HISTORY
1986-1987

Report, mentioned in statement:

97490 New Jersey. Department of Human Services.
H434 Report...containing recommendations in response to Governor Kean's
1985h directive of March 15, 1985 on nursing home issues. April 1, 1985. Trenton,
1985.

Directive of March 15, 1985--oral directive.

[OFFICIAL COPY REPRINT]

SENATE, No. 1971

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1986

By Senator CODEY

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning penalties for violation of regulations pertaining to patient safety in health care facilities and amending P. L. 1971, c. 136.

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

1 1. Section 14 of P. L. 1971, c. 136 (C. 26:2H-14) is amended to
2 read as follows:

3 14. Any person, firm, partnership, corporation or association
4 who shall operate or conduct a health care facility without first
5 obtaining the license required by this act, or who shall operate such
6 health care facility after revocation or suspension of license, shall
7 be liable to a penalty of not more than \$250.00 as provided for by
8 regulation for each day of operation in violation hereof for the
9 first offense and for any subsequent offense. Any person, firm,
10 partnership, corporation or association who ***[shall be found guilty**
11 **of violating]*** *violates** any rule or regulation adopted in accor-
12 dance with this act as the same pertains to the care of patients and
13 ***[neglects to rectify same [within seven days] immediately** after
14 receiving notice from the department of such violation or who
15 neglects to *immediately* commence**[, within seven days,]** such re-
16 pairs to his licensed establishment after receiving notice from the
17 department that hazardous or unsafe condition exists in or upon the
18 structure in which the licensed premises is maintained**]*** *physical*
19 *plant standards** shall be subject to a penalty of not more than
20 **[\$250.00] \$2,500.00** as provided for by regulation for each day that
21 he is in violation of such rule or regulation. Upon notification to the

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted May 12, 1986.**

22 facility of such violations as pertain to the care of patients or to the
 23 hazardous or unsafe condition existing in or upon the structure in
 24 which the licensed facility is maintained, the commissioner shall
 25 allow the facility 72 hours in which to correct any such violation and
 26 if at the end of such period the violation is not corrected and it poses
 27 an imminent threat to the health, safety or welfare of the public or
 28 of the residents of the facility, he may, in his discretion, summarily
 29 suspend the license of the facility without a hearing and may order
 30 immediate correction of such violation as a prerequisite of reinstatement
 31 of licensure. If a licensee that is subject to summary suspension shall deny
 32 that a violation exists or has occurred, he shall have the right to apply to
 33 the commissioner for a hearing. Such hearing shall be held and a decision
 34 rendered within 48 hours of receipt of said request. If the commissioner shall
 35 rule against the licensee, the licensee shall have the right to apply for
 36 injunctive relief against the commissioner's order. Jurisdiction of such injunctive
 37 relief shall be in the Superior Court of New Jersey. Nothing herein shall
 38 be construed to prevent the commissioner from thereafter suspending or
 39 revoking the license in accordance with the procedure set forth in section 13.
 40 If, within one year after such violation such person, firm, partnership,
 41 corporation or association is found guilty of the same violation such
 42 penalties as hereinbefore set forth shall be doubled, and if there be a
 43 third violation within such time, such penalties shall be tripled. In
 44 addition thereto the department may, in its discretion, suspend the
 45 license for such time as it may deem proper or revoke said license.

48 Any person, firm, partnership, corporation or association who shall,
 49 except in cases of an emergency, maintain more patients in his premises
 50 than he is licensed so to do, shall be subject to a penalty, in accordance
 51 with the procedure set forth in section 13, in an amount equal to the daily
 52 charge collected from such patient or patients plus \$25.00 for each day
 53 each extra patient is so maintained.

1 2. Section 16 of P. L. 1971, c. 136 (C. 26:2H-16) is amended to
 2 read as follows:

3 16. The penalties prescribed and authorized by this act shall be
 4 recovered in a summary civil proceeding, brought in the name of the State
 5 in the Superior Court, a County Court or a county district court pursuant
 6 to the Penalty Enforcement Law (N. J. S. 7 2A:58-1 et seq.).

8 The commissioner may, in his discretion and subject to rules and
 9 regulations, accept from any licensee an offer in compromise in such
 10 amount as may in his judgment be proper under the circum-

11 stances in lieu of any suspension of any license by the commissioner.
 12 [Any sums of money so collected by the commissioner shall be paid
 13 forthwith into the State Treasury for the general purposes of the
 14 State.] In no case shall the penalty be compromised for a sum less
 15 than \$250.00 for the first offense and \$500.00 for the second and
 16 each subsequent offense; provided, however, that any penalty of
 17 less than \$250.00 or \$500.00, as the case may be, may be compro-
 18 mised for a lesser sum.

19 *All penalties collected pursuant to this section shall be deposited*
 20 *in a special fund which is designated as the "Health Care Facilities*
 21 *Improvement Fund." The fund shall be dedicated for use by the*
 22 *commissioner to make corrections in a health care facility which*
 23 *is in violation of a licensure standard and in which the owner or*
 24 *operator is unable or unwilling to make the necessary corrections.*
 25 *The owner of the facility is required to repay the fund any monies*
 26 *plus interest at the prevailing rate that were expended by the State*
 27 *to correct the violation at the facility. If the owner fails to*
 28 *promptly reimburse the fund, the commissioner shall have a lien*
 29 *in the name of the State against the facility for the cost of the cor-*
 30 *rections plus interest and for any administrative cost incurred in*
 31 *filing the lien.*

32 The department may maintain an action in the name of the State
 33 to enjoin any person, firm, partnership, association or corporation
 34 from continuing to conduct, manage or operate a health care facility
 35 without a license, or after suspension or revocation of license, or in
 36 violation of rules and regulations promulgated hereunder.

1 3. This act shall take effect immediately.

HEALTH CARE FACILITIES AND PROVIDERS

Amends the "Health Care Facilities Planning Act" to strengthen enforcement provisions for violations of patient safety regulations.

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36 violation of rules and regulations promulgated hereunder.

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Sponsor's STATEMENT

This bill amends the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H-1 et seq.) to strengthen the act's enforcement provisions for violations of patient safety regulations and to establish a "Health Care Facilities Improvement Fund" which will be used to correct certain health care facility violations. This bill will enable the Department of Health to ensure the safety of patients by providing that health care facility licensure violations are corrected immediately.

Specifically, the bill provides that operators of health care facilities shall correct violations immediately instead of within seven days as the law currently allows, and that the maximum penalty for a violation shall be increased from \$250.00 to \$2,500.00. The commissioner is also authorized under this bill to use monies in

the newly created "Health Care Facilities Improvement Fund" to make necessary repairs at health care facilities in order to correct the violations when the owner is unable or unwilling to make the corrections. The owner of the facilities, however, is required to repay the fund for the cost of the repairs plus interest. If an owner does not repay the fund, the Commissioner of Health is authorized to place a lien on the facility for the cost of the repairs plus interest.

The provisions of this bill are based on recommendations of the Commissioners of Health and Human Services and the Ombudsman for the Institutionalized Elderly which were made in a recent report to the Governor concerning the monitoring and enforcement of nursing home safety. These recommendations follow recent incidents in which certain nursing homes were found to have significant hazardous or unsafe conditions for patients. Notwithstanding the need for prompt action, under current law the ability of the Department of Health to correct the violations immediately was limited. Accordingly, this bill addresses those limitations to provide for immediate correction of violations, stiffer penalties for violations and a fund which will enable the State to promptly finance needed repairs when the owner is unable or unwilling to do so himself.

HEALTH CARE FACILITIES AND PROVIDERS

Amends the "Health Care Facilities Planning Act" to strengthen enforcement provisions for violations of patient safety regulations.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO

SENATE, No. 1971

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 1986

The Senate Institutions, Health and Welfare Committee favorably reports Senate Bill No. 1971 with committee amendments.

This bill amends the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H-1 et seq.) to strengthen the act's enforcement provisions for violations of patient safety regulations and to establish a "Health Care Facilities Improvement Fund" which will be used to correct certain health care facility violations.

As amended by committee, the bill provides that operators of health care facilities who are guilty of violations of patient care and physical plant standards are liable for a maximum penalty of \$2,500.00. The current penalty is \$250.00. The commissioner is also authorized under this bill to use moneys in the newly created "Health Care Facilities Improvement Fund" to make necessary repairs at health care facilities in order to correct the violations when the owner is unable or unwilling to make the corrections. The owner of the facility, however, is required to repay the fund for the cost of the repairs plus interest. If an owner does not repay the fund, the Commissioner of Health is authorized to place a lien on the facility for the cost of the repairs plus interest.

The committee amended the bill to delete the requirement that the person "shall be found guilty of violating" patient care or physical plant standards and insert in its place the word "violates." Amendments also delete the provisions concerning the time in which the violations must be rectified.

The provisions of this bill are based on recommendations of the Commissioners of Health and Human Services and the Ombudsman for the Institutionalized Elderly which were made in a recent report to the Governor concerning the monitoring and enforcement of nursing home safety. These recommendations follow recent incidents in which certain nursing homes were found to have significant hazardous or unsafe conditions for patients. Notwithstanding the need for prompt action,

under current law the ability of the Department of Health to correct the violations immediately was limited. Accordingly, this bill addresses those limitations to provide for stiffer penalties for violations and a fund which will enable the State to promptly finance needed repairs when the owner is unable or unwilling to do so himself.

ASSEMBLY FLOOR Amendments

Proposed by Assemblyman DiGaetano
to

SENATE Bill No. 1971 OCR

Sponsored by Senator Codey

ADOPTED
JUN 19 1986

Amend:

Page	Sec.	Line
1	1	20

Omit "\$2,500.00" Insert "\$1,000.00"

STATEMENT

This amendment makes this bill identical to Assembly Bill No. 2288 Aca (DiGaetano), which was reported favorably by the Assembly Health and Human Resources Committee on June 9, 1986, and is now pending before the General Assembly.

The amendment, which is supported by the Department of Health, reduces the maximum penalty for a violation of nursing home licensure standards relating to patient care or physical plant standards, as provided in the bill, from \$2,500.00 to \$1,000.00. The penalty under current law is \$250.00.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956 OR 292-6000 EXT. 207

TRENTON, N.J. 08625

Release: THUR., AUG. 28, 1986

Governor Thomas H. Kean today signed legislation appropriating \$6 million in bond issue funds for shore protection projects.

The legislation, A-179, was sponsored in the Assembly by Assemblyman Anthony M. Villane, R-Monmouth, while an identical bill, S-1495, was sponsored by the Senate by Senator Frank Pallone, D-Monmouth.

The \$6 million is to be appropriated from the \$50 million Shore Protection Bond Act of 1983 and provides 75 per cent of a project's total cost. Local government provides the remaining 25 per cent.

Under the legislation, the funds will be expended at the discretion of the Department of Environmental Protection, consistent with the Department's shore protection master plan.

Kean also signed legislation to increase penalties for health care facility operators who violate patient safety laws and regulations; to provide for the immediate correction of violations, and to enable the State to finance repairs if the owner is unwilling or unable to do so.

The legislation, S-1971, was sponsored by Senator Richard Codey, D-Essex, and embodies recommendations included in a report on nursing home safety carried out by the Commissioner of Health and Human Services, and the Ombudsman for the Institutionalized Elderly.

- more -

SEP 4 1986

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The major points in the legislation are:

An increase in fines for violators from \$250 per day to \$1,000 per day for each day of violation.

Provides for the penalty to be assessed immediately, rather than after the seven-day grace period permitted under existing law.

Establishes a Health Care Facilities Improvement Fund to use monies raised from the imposition of fines to enable the State to correct violations if the owner of the facility is unwilling or unable to do so. The facility's owner would be required to reimburse the State for these expenditures.

"These changes will enable the State to act immediately to correct health or safety violations in nursing homes, thus assuring both patients and their families that the facility is adhering to the law," Kean said. "At the same time, by eliminating the seven-day grace period for correcting violations, we can overcome the practice of unscrupulous operators who make the necessary repairs only to permit the violation to occur over and over."

"The new law will greatly strengthen the State's ability to require that patient care as well as the quality of the facility itself be of the highest degree," Kean said.

Other bills signed by the Governor are:

S-136, sponsored by Senator Walter Foran, R-Hunterdon, to require that a school bus no longer used to transport children must meet Department of Education safety regulations if it is used to transport children or senior citizens to entertainment programs, recreation areas, sporting events or camping activities.