

LEGISLATIVE HISTORY CHECKLIST

NJSA: 26:2H-41 (Nursing home--in receivership--Dept. of Health may seek divestiture)

LAWS OF: 1986 **CHAPTER** 132

BILL NO: S1851

Sponsor(s): Codey

Date Introduced: March 3, 1986

Committee: Assembly: Health and Human Resources

Senate: Institutions, Health

Amended during passage: Yes Substituted for A1574 (not attached since identical to S1851). Amendments during passage denoted by asterisks.

Date of Passage: Assembly: September 15, 1986

Senate: May 5, 1986

Date of Approval: October 20, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

Report, mentioned in statement:

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

(OVER)

Directive of March 15, 1985--oral directive.

974.90 New Jersey. Legislature. General Assembly. Corrections, Health and Human
H434 Services Committee.
 Special committee meeting, held 3-26-85.
1985a Trenton, 1985.

(see especially pp. 62-69)

[OFFICIAL COPY REPRINT]

SENATE, No. 1851

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1986

By Senator CODEY

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning remedies for violations of standards for nursing homes and amending P. L. 1977, c. 238.

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

1 1. Section 6 of P. L. 1977, c. 238 (C. 26:2H-41) is amended to
2 read as follows:

3 6. The court shall proceed in a summary manner and shall
4 render a judgment either:

5 a. Dismissing the complaint for failure to affirmatively establish
6 the allegations thereof or because of the affirmative establishment
7 by the owner or licensee of a defense specified in this act; or

8 b. Ordering the appointment of a receiver **approved by the de-*
9 *partment** in accordance with the provisions of this act; or

10 c. Granting such other and further relief as the court deems just
11 and proper. *Upon the request of the department, if a receiver has*
12 *been appointed the relief may include a requirement that the owner*
13 *transfer his ownership interest to an entity approved by the*
14 *department.*

1 *2. Section 7 of P. L. 1977, c. 238 (C. 26:2H-42) is amended to
2 read as follows:

3 7. a. The court is authorized and empowered to appoint as a
4 receiver any responsible person or persons *approved by the depart-*
5 *ment*, except that no owner, licensee or administrator of the home
6 shall be appointed as receiver.

7 b. The receiver, in his discretion, may either (1) assume the role
8 of administrator or manager and take control of all day-to-day

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 March 24, 1986.**

9 operations, or (2) direct the administrator or manager on actions
10 and procedure to be taken to eliminate or rectify the conditions
11 specified in the complaint.

12 c. With the approval of the court the receiver shall have any
13 or all of the following powers:

14 (1) To hire any consultants or to undertake any studies of the
15 home he deems appropriate.

16 (2) To make any repairs, improvements or expenditures to
17 eliminate the conditions specified in the complaint and to direct
18 the method or procedures by which this shall be accomplished.

19 (3) To hire or discharge any employees including the adminis-
20 trator or manager.

21 (4) To receive or expend in a reasonable and prudent manner
22 the revenues of the home due on the date of the entry of such
23 judgment and to become due under such judgment.

24 (5) To continue the business of the home and the care of the
25 residents of the home in all its aspects.

26 (6) To do all acts necessary or appropriate to conserve the
27 property and promote the health, safety or resident care of the
28 residents in the home.

29 (7) To exercise such other powers as he deems necessary or
30 appropriate to implement the court order.

31 d. No provision in this section shall limit the right of any owner
32 *upon the approval of the department* to sell or mortgage any home
33 subject to receivership under this act.*

1 ***[2.]*** *3.* This act shall take effect immediately.

HEALTH CARE FACILITIES AND PROVIDERS

Permits the Department of Health to request the court to order
divestiture of ownership of a nursing home under certain con-
ditions when that home is in receivership.

SENATE, No. 1851

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1986

By Senator CODEY

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning remedies for violations of standards for
nursing homes and amending P. L. 1977, c. 238.

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

1 1. Section 6 of P. L. 1977, c. 238 (C. 26:2H-41) is amended to
2 read as follows:

3 6. The court shall proceed in a summary manner and shall
4 render a judgment either:

5 a. Dismissing the complaint for failure to affirmatively establish
6 the allegations thereof or because of the affirmative establishment
7 by the owner or licensee of a defense specified in this act; or

8 b. Ordering the appointment of a receiver in accordance with
9 the provisions of this act; or

10 c. Granting such other and further relief as the court deems just
11 and proper. *Upon the request of the department, if a receiver has*
12 *been appointed the relief may include a requirement that the owner*
13 *transfer his ownership interest to an entity approved by the*
14 *department.*

1 2. This act shall take effect immediately.

STATEMENT

This bill permits the Department of Health to request the court
to order the divestiture of ownership of a nursing home when
that home has been placed in receivership.

Section 6 of P. L. 1977, c. 238 (C. 26:2H-41) currently provides the Department of Health with the opportunity to request the court to temporarily remove a facility operator in order to correct existing violations without transferring a large number of patients. This provides a valuable alternative to closing a nursing home; however, it has been the experience of the department that this procedure to allow the original operator to eventually return to the facility after the corrections have been made can possibly continue to place the residents of the facility at great risk. This procedure also requires the Department of Health and other affected governmental agencies to continue to monitor the care in the facility far beyond the time when the agencies would ordinarily reduce the frequency of such activities.

In order to ensure the well-being of nursing home residents, this bill provides the department with the authority to request the court to require the operator of a facility to sell his interest to another party in cases where there have been frequent and serious violations of State and federal laws relating to the safety and well-being of the residents. This authority will prevent violations and abuses from occurring again under the same ownership and will better enable the department to continue enforcing its rules and regulations.

HEALTH CARE FACILITIES AND PROVIDERS

Permits the Department of Health to request the court to order divestiture of ownership of a nursing home under certain conditions when that home is in receivership.

ASSEMBLY HEALTH AND HUMAN RESOURCES
COMMITTEE

STATEMENT TO

SENATE, No. 1851

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JUNE 5, 1986

The Assembly Health and Human Resources Committee reports favorably Senate Bill No. 1851 OCR.

This bill permits the Department of Health to request the court to order the divestiture of ownership of a nursing home when that home has been placed in receivership.

Specifically, this bill provides the department with the authority to request the court to require the operator of a facility to sell his interest to another party in cases where there have been frequent and serious violations of State and federal laws relating to the safety and well-being of the residents. This authority is granted for the purpose of preventing violations and abuses from occurring again under the same ownership and improving the ability of the department to continue enforcing its rules and regulations.

The bill also amends sections 6 and 7 of P. L. 1977, c. 238 (C. 26:2H-41 and 42) to clarify that the receiver appointed by the court shall be a person approved by the Department of Health.

Section 6 of P. L. 1977, c. 238 (C. 26:2H-41) currently provides the Department of Health with the opportunity to request the court to temporarily remove a facility operator in order to correct existing violations without transferring a large number of patients. While this provides a valuable alternative to closing a nursing home, it has been the experience of the department that this procedure to allow the original operator to eventually return to the facility after the corrections have been made can possibly continue to place the residents of the facility at great risk. This procedure also requires the Department of Health and other affected governmental agencies to continue to monitor the care in the facility far beyond the time when the agencies would ordinarily reduce the frequency of such activities.

This bill incorporates one of a series of reforms recommended by the Commissioners of Health and Human Services and the Ombuds-

man for the Institutionalized Elderly in an April, 1985 report to the Governor concerning the monitoring and enforcement of nursing home safety.

This bill is identical to Assembly Bill No. 1574 Aca (Kern), which the committee reported favorably with committee amendments on May 5, 1986. That bill is now pending before the General Assembly.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO

SENATE, No. 1851

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 24, 1986

The Senate Institutions, Health and Welfare Committee favorably reports Senate Bill No. 1851 with committee amendments.

As amended, this bill permits the Department of Health to request the court to order the divestiture of ownership of a nursing home when that home has been placed in receivership.

Specifically, this bill provides the department with the authority to request the court to require the operator of a facility to sell his interest to another party in cases where there have been frequent and serious violations of State and federal laws relating to the safety and well-being of the residents. This authority is granted for the purpose of preventing violations and abuses from occurring again under the same ownership and improving the ability of the department to continue enforcing its rules and regulations.

The bill also amends sections 6 and 7 of P. L. 1977, c. 238 (C. 26:2H-41 and 42) to clarify that the receiver appointed by the court shall be a person approved by the Department of Health.

Section 6 of P. L. 1977, c. 238 (C. 26:2H-41) currently provides the Department of Health with the opportunity to request the court to temporarily remove a facility operator in order to correct existing violations without transferring a large number of patients. While this provides a valuable alternative to closing a nursing home, it has been the experience of the department that this procedure to allow the original operator to eventually return to the facility after the corrections have been made can possibly continue to place the residents of the facility at great risk. This procedure also requires the Department of Health and other affected governmental agencies to continue to monitor the care in the facility far beyond the time when the agencies would ordinarily reduce the frequency of such activities.

This bill is based on recommendations of the Commissioners of Health and Human Services and the Ombudsman for the Institutionalized Elderly which were made in a March 1985 report to the Governor concerning the monitoring and enforcement of nursing home safety.

The committee amended the bill to add the requirement that the court appointed receiver be approved by the Department of Health.