

LEGISLATIVE HISTORY CHECKLIST

NJSA: 10:5-5 et al

(Medicaid--extend to certain patients in health care facilities)

LAWS OF: 1985

CHAPTER: 303

Bill No: A1829/A872/A873

Sponsor(s): Otlowski, Gallo and Franks

Date Introduced: March 20, 1984

Committee: Assembly: Corrections, Health and Human Services

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes Substituted for S1515 (not attached since identical to A1829/A872/A873 4th (OCR/ACS). Amendments denoted by asterisks. Original bills for A1829, A872, A873 attached.

Date of Passage: Assembly: January 24, 1985

Senate: June 27, 1985

Date of Approval: August 24, 1985

Following statements are attached if available:

Sponsor statement: Yes Attached: Senate floor amendments, adopted 5-2-85, Assembly amendments, adopted 1-24-85 and Senate amendments, adopted 6-17-85 (with statements)

Committee statement: Assembly Yes 10-22-84 and 6-28-84

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: Yes

Hearings: Yes

(OVER)

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See newspaper clippings--attached.

"Law bars private-pay requirement," 8-25-85 Star Ledger.

"Medicaid patients and nursing home care," 11-13-84 Star Ledger.

"Nursing homes want compromise on Medicaid bills," 1-26-84 Bergen Record.

"Bill would protect elderly patients," 8-5-85 Trenton Times.

"Medicaid bias found in nursing homes," 1-28-86 Star Ledger.

974.90 New Jersey. Legislature. Senate. Institutions,
H434 Health and Welfare Committee.
1984 Public hearing on private-pay contracts. . . . , held 3-19-84.
Trenton, 1984.

974.90 New Jersey. Nursing Home Task Force.
H434 Report July 21, 1983.
1983j Trenton, 1983.

Bubrick, Nancy and Worthley, John, "Nursing home regulation in
New Jersey: case analysis of public policymaking," 83 New Jersey
Medicine, June, 1986, 379-382.

303
8 24-85

[FOURTH OFFICIAL COPY REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1829, 872 and 873

STATE OF NEW JERSEY

ADOPTED JUNE 28, 1984

By Assemblymen OTLOWSKI, GALLO and FRANKS

AN Act concerning patients in certain health care facilities, amend-
ing and supplementing P. L. 1945, c. 169, amending and supple-
menting P. L. 1968, c. 413 (C. 30:4D-1 et seq.), and making an
appropriation therefor.

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

1 1. Section 5 of P. L. 1945, c. 169 (C. 10:5-5) is amended to read
2 as follows:

3 5. As used in this act, unless a different meaning clearly appears
4 from the context:

5 a. "Person" includes one or more individuals, partnerships,
6 associations, organizations, labor organizations, corporations,
7 legal representatives, trustees, trustees in bankruptcy, receivers,
8 and fiduciaries.

9 b. "Employment agency" includes any person undertaking to
10 procure employees or opportunities for others to work.

11 c. "Labor organization" includes any organization which exists
12 and is constituted for the purpose, in whole or in part, of collective
13 bargaining, or of dealing with employers concerning grievances,
14 terms or conditions of employment, or of other mutual aid or
15 protection in connection with employment.

16 d. "Unlawful employment practice" and "unlawful discrimina-
17 tion" includes only those unlawful practices and acts specified in
18 section 11 of this act.

19 e. "Employer" includes all persons as defined in subsection a.
20 of this section unless otherwise specifically exempt under another
21 section of this act, and includes the State, any political or civil

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:
- *—Assembly committee amendments adopted October 22, 1984.
 - **—Assembly committee amendments adopted January 3, 1985.
 - ***—Assembly amendments adopted January 24, 1985.
 - ****—Senate amendments adopted May 2, 1985.
 - *****—Senate amendments adopted June 17, 1985.

22 subdivision thereof, and all public officers, agencies, boards or
23 bodies.

24 f. "Employee" does not include any individual employed by his
25 parents, spouse or child, or in the domestic service of any person.

26 g. "Liability for service in the Armed Forces of the United
27 States" means subject to being ordered as an individual or member
28 of an organized unit into active service in the Armed Forces of the
29 United States by reason of membership in the National Guard,
30 naval militia or a reserve component of the Armed Forces of the
31 United States, or subject to being inducted into such armed forces
32 through a system of national selective service.

33 h. "Division" means the "Division on Civil Rights" created by
34 this act.

35 i. "Attorney General" means the Attorney General of the State
36 of New Jersey or his representative or designee.

37 j. "Commission" means the Commission on Civil Rights created
38 by this act.

39 k. "Director" means the Director of the Division on Civil
40 Rights.

41 l. "A place of public accommodation" shall include, but not be
42 limited to: any tavern, roadhouse, hotel, motel, trailer camp, sum-
43 mer camp, day camp, or resort camp, whether for entertainment
44 of transient guests or accommodation of those seeking health, rec-
45 reation or rest; any producer, manufacturer, wholesaler, distrib-
46 utor, retail shop, store, establishment, or concession dealing with
47 goods or services of any kind; any restaurant, eating house, or place
48 where food is sold for consumption on the premises; any place
49 maintained for the sale of ice cream, ice and fruit preparations or
50 their derivatives, soda water or confections, or where any beverages
51 of any kind are retailed for consumption on the premises; any
52 garage, any public conveyance operated on land or water, or in the
53 air, any stations and terminals thereof; and bathhouse, boardwalk,
54 or seashore accommodation; any auditorium, meeting place, or
55 hall; any theatre, motion-picture house, music hall, roof garden,
56 skating rink, swimming pool, amusement and recreation park, fair,
57 bowling alley, gymnasium, shooting gallery, billiard and pool
58 parlor, or other place of amusement; any comfort station; any
59 dispensary, clinic or hospital; any public library; and kindergarten,
60 primary and secondary school, trade or business school, high school,
61 academy, college and university, or any educational institution
62 under the supervision of the State Board of Education, or the Com-
63 missioner of Education of the State of New Jersey. Nothing herein
64 contained shall be construed to include or to apply to any institu-

65 tion, bona fide club, or place of accommodation, which is in its
66 nature distinctly private; nor shall anything herein contained apply
67 to any educational facility operated or maintained by a bona fide
68 religious or sectarian institution, and the right of a natural parent
69 or one in loco parentis to direct the education and upbringing of a
70 child under his control is hereby affirmed; nor shall anything herein
71 contained be construed to bar any private secondary or post-
72 secondary school from using in good faith criteria other than race,
73 creed, color, national origin or ancestry, in the admission of
74 students.

75 m. "A publicly assisted housing accommodation" shall include
76 all housing built with public funds or public assistance pursuant to
77 P. L. 1949, c. 300, P. L. 1941, c. 213, P. L. 1944, c. 169, P. L. 1949,
78 c. 303, P. L. 1938, c. 19, P. L. 1938, c. 20, P. L. 1946, c. 52, and P. L.
79 1949, c. 184, and all housing financed in whole or in part by a loan
80 whether or not secured by a mortgage, the repayment of which is
81 guaranteed or insured by the federal government or any agency
82 thereof.

83 n. The term "real property" includes real estate, lands, tene-
84 ments and hereditaments, corporeal and incorporeal, and lease-
85 holds, provided, however, that, except as to publicly assisted hous-
86 ing accommodations, the provisions of this act shall not apply to
87 the rental: (1) of a single apartment or flat in a two-family dwell-
88 ing, the other occupancy unit of which is occupied by the owner as
89 his residence or the household of his family at the time of such
90 rental; or (2) of a room or rooms to another person or persons by
91 the owner or occupant of a one-family dwelling occupied by him as
92 his residence or the household of his family at the time of such
93 rental. Nothing herein contained shall be construed to bar any
94 religious or denominational institution or organization, or any
95 organization operated for charitable or educational purposes,
96 which is operated, supervised or controlled by or in connection with
97 a religious organization, in the sale, lease or rental of real property,
98 from limiting admission to or giving preference to persons of the
99 same religion or denomination or from making such selection as is
100 calculated by such organization to promote the religious principles
101 for which it is established or maintained.

102 o. "Real estate broker" includes a person, firm or corporation
103 who, for a fee, commission or other valuable consideration, or by
104 reason of promise or reasonable expectation thereof, lists for sale,
105 sells, exchanges, buys or rents, or offers or attempts to negotiate a
106 sale, exchange, purchase, or rental of real estate or an interest
107 therein, or collects or offers or attempts to collect rent for the use

108 of real estate, or solicits for prospective purchasers or assists or
109 directs in the procuring of prospects or the negotiation or closing
110 of any transaction which does or is contemplated to result in the
111 sale, exchange, leasing, renting or auctioning of any real estate, or
112 negotiates, or offers or attempts or agrees to negotiate a loan
113 secured or to be secured by mortgage or other encumbrance upon
114 or transfer of any real estate for others; or any person who, for
115 pecuniary gain or expectation of pecuniary gain conducts a public
116 or private competitive sale of lands or any interest in lands. In the
117 sale of lots, the term "real estate broker" shall also include any
118 person, partnership, association or corporation employed by or on
119 behalf of the owner or owners of lots or other parcels of real estate,
120 at a stated salary, or upon a commission, or upon a salary and com-
121 mission or otherwise, to sell such real estate, or any parts thereof,
122 in lots or other parcels, and who shall sell or exchange, or offer or
123 attempt or agree to negotiate the sale or exchange, of any such lot
124 or parcel of real estate.

125 p. "Real estate salesman" includes any person who, for compen-
126 sation, valuable consideration or commission, or other thing of
127 value, or by reason of a promise or reasonable expectation thereof,
128 is employed by and operates under the supervision of a licensed real
129 estate broker to sell or offer to sell, buy or offer to buy or negotiate
130 the purchase, sale or exchange of real estate, or offers or attempts
131 to negotiate a loan secured or to be secured by a mortgage or other
132 encumbrance upon or transfer of real estate, or to lease or rent, or
133 offer to lease or rent any real estate for others, or to collect rents
134 for the use of real estate, or to solicit for prospective purchasers
135 or lessees of real estate, or who is employed by a licensed real
136 estate broker to sell or offer to sell lots or other parcels of real
137 estate, at a stated salary, or upon a commission, or upon a salary
138 and commission, or otherwise to sell real estate, or any parts
139 thereof, in lots or other parcels.

140 q. "Handicapped" means suffering from physical disability,
141 infirmity, malformation or disfigurement which is caused by bodily
142 injury, birth defect or illness including epilepsy, and which shall
143 include, but not be limited to, any degree of paralysis, amputation,
144 lack of physical coordination, blindness or visual impediment, deaf-
145 ness or hearing impediment, muteness or speech impediment
146 or physical reliance on a service or guide dog, wheelchair, or other
147 remedial appliance or device, or from any mental, psychological or
148 developmental disability resulting from anatomical, psychological,
149 physiological or neurological conditions which prevents the normal
150 exercise of any bodily or mental functions or is demonstrable,

151 medically or psychologically, by accepted clinical or laboratory
152 diagnostic techniques.

153 r. "Blind person" means any individual whose central visual
154 acuity does not exceed 20/200 in the better eye with correcting lens
155 or whose visual acuity is better than 20/200 if accompanied by a
156 limit to the field of vision in the better eye to such a degree that its
157 widest diameter subtends an angle of no greater than 20 degrees.

158 s. "Guide dog" means a dog used to assist deaf persons or which
159 fitted with a special harness so as to be suitable as an aid to the
160 mobility of a blind person, and is used by a blind person who has
161 satisfactorily completed a specific course of training in the use of
162 such a dog, and has been trained by an organization generally
163 recognized by agencies involved in the rehabilitation of the blind
164 or deaf as reputable and competent to provide dogs with training
165 of this type.

166 t. "Guide or service dog trainer" means any person who is em-
167 ployed by an organization generally recognized by agencies in-
168 volved in the rehabilitation of the blind, handicapped or deaf as
169 reputable and competent to provide dogs with training, and who is
170 actually involved in the training process.

171 u. "Housing accommodation" means any publicly assisted hous-
172 ing accommodation or any real property, or portion thereof, which
173 is used or occupied, or is intended, arranged, or designed to be used
174 or occupied, as the home, residence or sleeping place of one or more
175 persons, but shall not include any single family residence the occu-
176 pants of which rent, lease, or furnish for compensation not more
177 than one room therein.

178 v. "Public facility" means any place of public accommodation
179 and any street, highway, sidewalk, walkway, public building, and
180 any other place or structure to which the general public is regularly,
181 normally or customarily permitted or invited.

182 w. "Deaf person" means any person whose hearing is so severely
183 impaired that he is unable to hear and understand normal con-
184 versational speech through the unaided ear alone, and who must
185 depend primarily on supportive device or visual communication
186 such as writing, lip reading, sign language, and gestures.

187 x. "Atypical hereditary cellular or blood trait" means sickle cell
188 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or
189 cystic fibrosis trait.

190 y. "Sickle cell trait" means the condition wherein the major
191 natural hemoglobin components present in the blood of the in-
192 dividual are hemoglobin A (normal) and hemoglobin S (sickle
193 hemoglobin) as defined by standard chemical and physical analytic

194 techniques, including electrophoresis; and the proportion of hemo-
 195 globin A is greater than the proportion of hemoglobin S or one
 196 natural parent of the individual is shown to have only normal
 197 hemoglobin components (hemoglobin A, hemoglobin A2, hemo-
 198 globin F) in the normal proportions by standard chemical and
 199 physical analytic tests.

200 z. "Hemoglobin C trait" means the condition wherein the major
 201 natural hemoglobin components present in the blood of the in-
 202 dividual are hemoglobin A (normal) and hemoglobin C as defined
 203 by standard chemical and physical analytic techniques, including
 204 electrophoresis; and the proportion of hemoglobin A is greater
 205 than the proportion of hemoglobin C or one natural parent of the
 206 individual is shown to have only normal hemoglobin components
 207 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal propor-
 208 tions by standard chemical and physical analytic tests.

209 aa. "Thalassemia trait" means the presence of the thalassemia
 210 gene which in combination with another similar gene results in the
 211 chronic hereditary disease Cooley's anemia.

212 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
 213 which in combination with another similar gene results in the
 214 chronic hereditary disease Tay-Sachs.

215 cc. "Cystic fibrosis trait" means the presence of the cystic
 216 fibrosis gene which in combination with another similar gene results
 217 in the chronic hereditary disease cystic fibrosis.

218 dd. "Service dog" means any dog individually trained to a handi-
 219 capped person's requirements including, but not limited to, minimal
 220 protection work, rescue work, pulling a wheelchair or retrieving
 221 dropped items.

222 ee. "*****Qualified***** Medicaid ****[eligible recipient]****
 223 *****applicant*****" means an individual who is qualified ****or
 224 *eligible***** to receive skilled nursing or intermediate care facility
 225 services which are reimbursable by the Medicaid program pursuant
 226 to P. L. 1968, c. 413 (C. 30:4D-1 et seq.).

1 ****[2. Section 11 of P. L. 1945, c. 169 (C. 10:5-12) is amended
 2 to read as follows:

3 11. It shall be unlawful employment practice, or, as the case may
 4 be, an unlawful discrimination:

5 a. For an employer, because of the race, creed, color, national
 6 origin, ancestry, age, marital status, sex or atypical hereditary
 7 cellular or blood trait of any individual, or because of the liability
 8 for service in the Armed Forces of the United States or the
 9 nationality of any individual, to refuse to hire or employ or to
 10 bar or to discharge from employment such individual or to dis-

11 criminate against such individual in compensation or in terms,
12 conditions or privileges of employment; provided, however, it
13 shall not be an unlawful employment practice to refuse to accept
14 for employment an applicant who has received a notice of induc-
15 tion or orders to report for active duty in the armed forces; pro-
16 vided further that nothing herein contained shall be construed to
17 bar an employer from refusing to accept for employment any
18 person on the basis of sex in those certain circumstances where sex
19 is a bona fide occupational qualification, reasonably necessary to the
20 normal operation of the particular business or enterprise; provided
21 further that it shall not be an unlawful employment practice for a
22 club exclusively social or fraternal to use club membership as a
23 uniform qualification for employment, or for a religious association
24 or organization to utilize religious affiliation as a uniform qualifica-
25 tion in the employment of clergy, religious teachers or other em-
26 ployees engaged in the religious activities of the association or
27 organizations, or in following the tenets of its religion in establish-
28 ing and utilizing criteria for employment of an employee; and
29 provided further that an employer may restrict employment to
30 citizens of the United States where such restriction is required
31 by federal law or is otherwise necessary to protect the national
32 interest.

33 b. For a labor organization, because of the race, creed, color,
34 national origin, ancestry, age, marital status or sex of any
35 individual, or because of the liability for service in the Armed
36 Forces of the United States or nationality of any individual,
37 to exclude or to expel from its membership such individual or to
38 discriminate in any way against any of its members, against any
39 applicant for, or individual included in, any apprentice or other
40 training program or against any employer or any individual em-
41 ployed by an employer; provided, however, that nothing herein
42 contained shall be construed to bar a labor organization from
43 excluding from its apprentice or other training programs any
44 person on the basis of sex in those certain circumstances where sex
45 is a bona fide occupational qualification reasonably necessary
46 to the normal operation of the particular apprentice or other
47 training program.

48 c. For any employer or employment agency to print or circulate
49 or cause to be printed or circulated any statement, advertisement
50 or publication, or to use any form of application for employment,
51 or to make an inquiry in connection with prospective employment,
52 which expresses, directly or indirectly, any limitation, specification
53 or discrimination as to race, creed, color, national origin, ancestry,

54 age, marital status or sex or liability of any applicant for employ-
55 ment for service in the Armed Forces of the United States, or
56 any intent to make any such limitation, specification or discrim-
57 ination, unless based upon a bona fide occupational qualification.

58 d. For any person to take reprisals against any person because
59 he has opposed any practices or acts forbidden under this act or
60 because he has filed a complaint, testified or assisted in any pro-
61 ceeding under this act.

62 e. For any person, whether an employer or an employee or not,
63 to aid, abet, incite, compel or coerce the doing of any of the acts
64 forbidden under this act, or to attempt to do so.

65 f. For any owner, lessee, proprietor, manager, superintendent,
66 agent, or employee of any place of public accommodation directly
67 or indirectly to refuse, withhold from or deny to any person any
68 of the accommodations, advantages, facilities, or privileges thereof,
69 or to discriminate against any person in the furnishing thereof,
70 or directly or indirectly to publish, circulate, issue, display, post or
71 mail any written or printed communication, notice, or advertise-
72 ment to the effect that any of the accommodations, advantages,
73 facilities, or privileges of any such place will be refused, withheld
74 from, or denied to any person on account of the race, creed, color,
75 national origin, ancestry, marital status, sex or nationality
76 of such person, or that the patronage or custom thereof of any
77 person of any particular race, creed, color, national origin, ancestry,
78 marital status, sex or nationality is unwelcome, objectionable or
79 not acceptable, desired or solicited, and the production of any
80 such written or printed communication, notice or advertisement,
81 purporting to relate to any such place and to be made by any
82 owner, lessee, proprietor, superintendent or manager thereof, shall
83 be presumptive evidence in any action that the same was authorized
84 by such person; provided, however, that nothing contained herein
85 shall be construed to bar any place of public accommodation which
86 is in its nature reasonably restricted exclusively to individuals
87 of one sex, and which shall include but not be limited to any summer
88 camp, day camp, or resort camp, bathhouse, dressing room, swim-
89 ming pool, gymnasium, comfort station, dispensary, clinic or
90 hospital, or school or educational institution which is restricted
91 exclusively to individuals of one sex, from refusing, withholding
92 from or denying to any individual of the opposite sex any of the
93 accommodations, advantages, facilities or privileges thereof on the
94 basis of sex; provided further, that the foregoing limitation shall
95 not apply to any restaurant as defined in R. S. 33:1-1 or place
96 where alcoholic beverages are served.

97 g. For the owner, lessee, sublessee, assignee or managing agent
98 of, or other person having the right of ownership or possession of
99 or the right to sell, rent, lease, assign or sublease any real property
100 or part or portion thereof, or any agent or employee of any of these:

101 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
102 to deny to or withhold from any person or group of persons any
103 real property or part or portion thereof because of the race, creed,
104 color, national origin, ancestry, marital status, sex or nationality
105 of such person or group of persons;

106 (2) To discriminate against any person or group of persons be-
107 cause of the race, creed, color, national origin, marital status
108 or sex of such person or group of persons in the terms, conditions
109 or privileges of the sale, rental or lease of any real property or part
110 or portion thereof or in the furnishing of facilities or services in
111 connection therewith; or

112 (3) To print, publish, circulate, issue, display, post or mail, or
113 cause to be printed, published, circulated, issued, displayed, posted
114 or mailed any statement, advertisement, publication or sign, or to
115 use any form of application for the purchase, rental, lease, assign-
116 ment or sublease of any real property or part or portion thereof,
117 or to make any record or inquiry in connection with the prospective
118 purchase, rental, lease, assignment, or sublease of any real prop-
119 erty, or part or portion thereof which expresses, directly or in-
120 directly, any limitation, specification or discrimination as to race,
121 creed, color, national origin, ancestry, marital status, sex or
122 nationality or any intent to make any such limitation, specification
123 or discrimination, and the production of any such statement, ad-
124 vertisement, publicity, sign, form of application, record, or inquiry
125 purporting to be made by any such person shall be presumptive
126 evidence in any action that the same was authorized by such person;
127 provided, however, that nothing contained in this subsection shall
128 be construed to bar any person from refusing to sell, rent, lease,
129 assign or sublease or from advertising or recording a qualification
130 as to sex for any room, apartment, flat in a dwelling or residential
131 facility which is planned exclusively for and occupied by individuals
132 of one sex to any individual of the exclusively opposite sex on the
133 basis of sex.

134 h. For any real estate broker, real estate salesman or employee
135 or agent thereof:

136 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
137 sale, rental, lease, assignment, or sublease any real property or part
138 or portion thereof to any person or group of persons or to refuse
139 to negotiate for the sale, rental, lease, assignment, or sublease of

140 any real property or part or portion thereof to any person or group
141 of persons because of the race, creed, color, national origin, an-
142 cestry, marital status, sex or nationality of such person or group
143 of persons, or to represent that any real property or portion thereof
144 is not available for inspection, sale, rental, lease, assignment, or
145 sublease when in fact it is so available, or otherwise to deny or with-
146 hold any real property or any part or portion of facilities thereof
147 to or from any person or group of persons because of the race,
148 creed, color, national origin, ancestry, marital status, sex or
149 nationality of such person or group of persons;

150 (2) To discriminate against any person because of his race, creed,
151 color, national origin, ancestry, marital status or sex in the terms,
152 conditions or privileges of the sale, rental, lease, assignment or
153 sublease of any real property or part or portion thereof or in the
154 furnishing of facilities or services in connection therewith; or

155 (3) To print, publish, circulate, issue, display, post, or mail, or
156 cause to be printed, published, circulated, issued, displayed, posted
157 or mailed any statement, advertisement, publication or assign, or
158 to use any form of application for the purchase, rental, lease,
159 assignment, or sublease of any real property or part or portion
160 thereof or to make any record or inquiry in connection with the pro-
161 spective purchase, rental, lease, assignment, or sublease of any real
162 property or part or portion thereof which expresses, directly or
163 indirectly, any limitation, specification or discrimination as to
164 race, creed, color, national origin, ancestry, marital status, sex
165 or nationality or any intent to make any such limitation, specifi-
166 cation or discrimination, and the production of any such statement,
167 advertisement, publicity, sign, form of application, record, or
168 inquiry purporting to be made by any such person shall be pre-
169 sumptive evidence in any action that the same was authorized by
170 such person; provided, however, that nothing contained in this
171 subsection h., shall be construed to bar any person from refusing
172 to sell, rent, lease, assign or sublease or from advertising or
173 recording a qualification as to sex for any room, apartment, flat
174 in a dwelling or residential facility which is planned exclusively
175 for and occupied exclusively by individuals of one sex to any in-
176 dividual of the opposite sex on the basis of sex.

177 i. For any person, bank, banking organization, mortgage com-
178 pany, insurance company or other financial institution, lender or
179 credit institution to whom application is made for any loan or
180 extension of credit including but not limited to an application for
181 financial assistance for the purchase, acquisition, construction,

182 rehabilitation, repair or maintenance of any real property or part
183 or portion thereof or any agent or employee thereof:

184 (1) To discriminate against any person or group of persons
185 because of the race, creed, color, national origin, ancestry, marital
186 status, sex or nationality of such person or group of persons or
187 of the prospective occupants or tenants of such real property
188 or part or portion thereof, in the granting, withholding, extending,
189 modifying or renewing; or in the fixing of the rates, terms, con-
190 ditions or provisions of any such loan, extension of credit or
191 financial assistance or in the extension of services in connection
192 therewith; or

193 (2) To use any form of application for such loan, extension
194 of credit or financial assistance or to make record or inquiry
195 in connection with applications for any such loan, extension of
196 credit or financial assistance which expresses, directly or indirectly,
197 any limitation, specification or discrimination as to race, creed,
198 color, national origin, ancestry, marital status, sex or nationality
199 or any intent to make any such limitation, specification or discrim-
200 ination; unless otherwise required by law or regulation to retain
201 or use such information.

202 j. For any person whose activities are included within the scope
203 of this act to refuse to post or display such notices concerning the
204 rights or responsibilities of persons affected by this act as the
205 Attorney General may by regulation require.

206 k. For any real estate broker, real estate salesman or em-
207 ployee or agent thereof or any other individual, corporation, part-
208 nership, or organization, for the purpose of inducing a transaction
209 for the sale or rental of real property from which transaction such
210 person or any of its members may benefit financially, to represent
211 that a change has occurred or will or may occur in the composition
212 with respect to race, creed, color, national origin, ancestry, marital
213 status, sex or nationality of the owners or occupants in the block,
214 neighborhood or area in which the real property is located,
215 and to represent, directly or indirectly, that this change will or
216 may result in undesirable consequences in the block, neighborhood
217 or area in which the real property is located, including, but not
218 limited to the lowering of property values, an increase in criminal
219 or anti-social behavior, or a decline in the quality of schools or
220 other facilities.

221 l. For any person to refuse to buy from, sell to, lease from or to,
222 license, contract with, or trade with, provide goods, services or
223 information to, or otherwise do business with any other person on
224 the basis of the race, creed, color, national origin, ancestry, age,

225 sex, marital status, liability for service in the Armed Forces of the
226 United States, or nationality of such other person or of such other
227 person's spouse, partners, members, stockholders, directors,
228 officers, managers, superintendents, agents, employees, business
229 associates, suppliers, or customers. This subsection shall not pro-
230 hibit refusals or other actions (1) pertaining to employee-employer
231 collective bargaining, labor disputes, or unfair labor practices, or
232 (2) made or taken in connection with a protest of unlawful discrim-
233 ination or unlawful employment practices.

234 m. For any person to :

235 (1) Grant or accept any letter of credit or other document which
236 evidences the transfer of funds or credit, or enter into any con-
237 tract for the exchange of goods or services, where the letter of
238 credit, contract, or other document contains any provisions requir-
239 ing any person to discriminate against or to certify that he, she or
240 it has not dealt with any other person on the basis of the race, creed,
241 color, national origin, ancestry, age, sex, marital status, liability for
242 service in the Armed Forces of the United States, or nationality
243 of such other person or of such other person's spouse, partners,
244 members, stockholders, directors, officers, managers, superin-
245 tendents, agents, employees, business associates, suppliers, or
246 customers.

247 (2) Refuse to grant or accept any letter of credit or other docu-
248 ment which evidences the transfer of funds or credit, or refuse to
249 enter into any contract for the exchange of goods or services, on the
250 ground that it does not contain such a discriminatory provision
251 or certification.

252 The provisions of this subsection shall not apply to any letter of
253 credit, contract, or other document which contains any provision
254 pertaining to employee-employer collective bargaining, a labor
255 dispute or an unfair labor practice, or made in connection with the
256 protest of unlawful discrimination or an unlawful employment
257 practice, if the other provisions of such letter of credit, contract,
258 or other document do not otherwise violate the provisions of this
259 subsection.

260 n. For any person to aid, abet, incite, compel, coerce, or induce
261 the doing of any act forbidden by subsections 11 l. and m. of
262 this act, or to attempt, or to conspire to do so. Such prohibited
263 conduct shall include, but not be limited to :

264 (1) Buying from, selling to, leasing from or to, licensing, con-
265 tracting with, trading with, providing goods, services, or informa-
266 tion to, or otherwise doing business with any person because that
267 person does, or agrees or attempts to do, any such act or any act
268 prohibited by this subsection n.; or

269 (2) Boycotting, commercially blacklisting or refusing to buy
 270 from, sell to, lease from or to, license, contract with, provide goods,
 271 services or information to, or otherwise do business with any person
 272 because that person has not done or refuses to do any such act or
 273 any act prohibited by this subsection n.; provided, that, this sub-
 274 section n. shall not prohibit refusals or other actions either pertain-
 275 ing to employee-employer collective bargaining, labor disputes, or
 276 unfair labor practices, or made or taken in connection with a pro-
 277 test of unlawful discrimination or unlawful employment practices.

278 *o. For***** 2. (New section) ****[a.]**** *It shall be an*
 279 *unlawful discrimination for***** *any skilled nursing or intermediate*
 280 *care facility* *****which is a Medicaid provider pursuant to P. L.*
 281 *1968, c. 413 (C. 30:4D-1 et seq.) and***** *whose Medicaid occupancy*
 282 *level is less than the Statewide occupancy level* ***[*as determined*
 283 *by the Commissioner of Human Services*]***, ****[*the skilled nurs-*
 284 *ing or intermediate care facility shall not*]**** *****to***** *deny*
 285 *admission to a qualified Medicaid* ****[*eligible recipient*]****
 286 *****applicant***** *when a nursing home bed becomes available**;
 287 *except that this requirement shall not be construed to* *****apply to*
 288 *the transfer of a resident from a residential unit to a nursing care*
 289 *unit within a facility, as defined by regulation, or***** *prohibit a life*
 290 *care community, as defined by regulation, from contracting with its*
 291 *own residents for prior rights to beds in the* ****[*long-term*]****
 292 *****nursing***** *care unit of the community**. The ****[*commis-*
 293 *sioner*]**** *****Commissioner of Human Services***** **[*may*]**
 294 ***shall*** *modify this requirement based on the licensed bed capac-*
 295 *ity and the financial condition of a facility but in no case shall*
 296 **[*be*]** ***the*** *Medicaid occupancy level of that facility be less*
 297 *than 35%. The commissioner shall by September 1 of each year*
 298 *provide the Institutions, Health and Welfare Committee of the*
 299 *Senate, the Corrections, Health and Human Services Committee*
 300 *of the General Assembly, and the Governor with a report stating*
 301 *in specific detail the adverse financial condition of each facility ex-*
 302 *empted from this requirement. The criteria used by the commis-*
 303 *sioner to modify this requirement shall be contained in regulations*
 304 *which he shall adopt pursuant to the "Administrative Procedure*
 305 *Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), and a list of all skilled*
 306 *nursing or intermediate care facilities granted a modification by*
 307 *the commissioner shall be published in the New Jersey Register*
 308 *within one month of* *****the commissioner's granting of***** *the*
 309 *modification. Nothing in this* ****[*subsection*]**** *****sec-*
 310 *tion***** *shall be construed to prohibit a religiously affiliated skilled*

311 nursing or intermediate care facility from utilizing religious affil-
312 iation as a uniform qualification for admission.*

313 For the purpose of this subsection and section 3 of this ****amen-
314 datory and supplementary**** act, "Statewide occupancy level"
315 means ****[the total number of Medicaid recipients residing in
316 skilled nursing or intermediate care facilities in the State divided
317 by]**** 45% of**** the total number of licensed ****beds in
318 a**** skilled nursing ****[and]**** ****or**** intermediate care
319 facility ****[beds in the State]**** ****for the first year following
320 the effective date of this ****amendatory and supplementary****
321 act****[, 50% for the second year following the effective date of
322 this act, and 55% beginning on the date two years from the effective
323 date of this act****].**** ****For each year thereafter, the Com-
324 missioner of Human Services shall annually determine the State-
325 wide occupancy level based on the commissioner's projection of the
326 need for nursing facility bed space for qualified Medicaid applicants
327 for that year, but the level shall not be less than 45%. Upon making
328 the determination of what the Statewide occupancy level shall be
329 for the next year, the commissioner shall promptly notify the mem-
330 bers of the Senate Institutions, Health and Welfare Committee and
331 General Assembly Corrections, Health and Human Services Com-
332 mittee, in writing, about the proposed level and the commissioner's
333 rationale for so determining the level. After notifying the com-
334 mittee members, the commissioner shall adopt the Statewide occu-
335 pancy level by regulation pursuant to the "Administrative Pro-
336 cedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).**** ****[The
337 level shall be determined initially based on a three-year period end-
338 ing June 30, 1984 and shall be updated annually based on the aver-
339 age of a consecutive three-year period ending June 30 of each year.
340 The level shall be published in the New Jersey Register by Sep-
341 tember 1 of each year.]****

342 For the purpose of this ****[subsection]**** ****section****
343 and section 3 of this ****amendatory and supplementary**** act,
344 "Medicaid occupancy level" means the average number of Medicaid
345 recipients residing in a skilled nursing or intermediate care facility
346 divided by the total number of licensed beds in the facility during
347 that month. The Department of Human Services shall compile this
348 information on a monthly basis and it shall be made available to
349 the public upon request. This information shall be provided to the
350 Division on Civil Rights on a monthly basis.

1 3. (New section) A person or agency having knowledge that a
2 skilled nursing or intermediate care facility whose Medicaid oc-
3 cupancy level is less than the Statewide occupancy level ****[as

4 determined by the Commissioner of Human Services]**** has
 5 denied admission to a qualified Medicaid ****[eligible resi-
 6 dent]**** *****applicant*,**** shall promptly report this informa-
 7 tion to the Division on Civil Rights of the Department of Law and
 8 Public Safety.

1 4. Section 3 of P. L. 1968, c. 413 (C. 30:4D-3) is amended to
 2 read as follows:

3 3. Definitions. As used in this act, and unless the context other-
 4 wise requires:

5 a. "Applicant" means any person who has made application for
 6 purposes of becoming a "qualified applicant."

7 b. "Commissioner" means the Commissioner of the Department
 8 of Human Services.

9 c. "Department" means the Department of Human Services,
 10 which is herein designated as the single State agency to administer
 11 the provisions of this act.

12 d. "Director" means the Director of the Division of Medical
 13 Assistance and Health Services.

14 e. "Division" means the Division of Medical Assistance and
 15 Health Services.

16 f. "Medicaid" means the New Jersey Medical Assistance and
 17 Health Services Program.

18 g. "Medical assistance" means payments on behalf of recipients
 19 to providers for medical care and services authorized under this
 20 act.

21 h. "Provider" means any person, public or private institution,
 22 agency or business concern approved by the division lawfully pro-
 23 viding medical care, services, goods and supplies authorized under
 24 this act, holding, where applicable, a current valid license to
 25 provide such services or to dispense such goods or supplies.

26 i. "Qualified applicant" means a person who is a resident of
 27 this State and is determined to need medical care and services as
 28 provided under this act, and who:

29 (1) Is a recipient of aid to families with dependent children; or

30 (2) Is a recipient of supplemental security income for the aged,
 31 blind and disabled under Title XVI of the Social Security Act; or

32 (3) Is an "ineligible spouse" of a recipient of supplemental
 33 security income for the aged, blind and disabled under Title XVI
 34 of the Social Security Act, as defined by the federal Social Security
 35 Administration; or

36 (4) Would be eligible to receive public assistance under a cate-
 37 gorical assistance program except for failure to meet an eligibility
 38 condition or requirement imposed under such State program which

39 is prohibited under Title XIX of the federal Social Security Act
 40 such as a durational residence requirement, relative responsibility,
 41 consent to imposition of a lien; or

42 (5) Is a child between 18 and 21 years of age who would be
 43 eligible for aid to families with dependent children living in the
 44 family group except for lack of school attendance or pursuit of
 45 formalized vocational or technical training; or

46 (6) Is an individual under 21 years of age who qualifies for
 47 categorical assistance on the basis of financial eligibility, but does
 48 not qualify as a dependent child under the State's program of aid
 49 to families with dependent children (AFDC), or groups of such
 50 individuals, including but not limited to, children in foster place-
 51 ment under supervision of the Division of Youth and Family
 52 Services whose maintenance is being paid in whole or in part from
 53 public funds, children placed in a foster home or institution by a
 54 private adoption agency in New Jersey or children in intermediate
 55 care facilities, including institutions for the mentally retarded, or
 56 in psychiatric hospitals; or

57 (7) Meets the standard of need applicable to his circumstances
 58 under a categorical assistance program or supplemental security
 59 income program, but is not receiving such assistance and applies
 60 for medical assistance only.

61 A person shall not be considered a qualified applicant if, within
 62 **[1 year]** *24 months* of becoming or making application to become
 63 a qualified applicant, he has made a voluntary assignment or trans-
 64 fer of real or personal property, or any interest or estate in prop-
 65 erty, for less than adequate consideration. Such voluntary assign-
 66 ment or transfer of property shall be deemed to have been made
 67 for the purpose of becoming a qualified applicant in the absence of
 68 evidence to the contrary supplied by the applicant. This require-
 69 ment shall not be applicable to Supplemental Security Income
 70 applicants or aged, blind or disabled applicants for Medicaid only
 71 unless authorized by federal law. *Implementation of this require-*
 72 *ment shall conform with the provisions of section 132 of Pub. L.*
 73 *97-248, 42 U. S. C. 1396 p. (c).*

74 j. "Recipient" means any qualified applicant receiving benefits
 75 under this act.

76 k. "Resident" means a person who is living in the State
 77 voluntarily with the intention of making his home there and not
 78 for a temporary purpose. Temporary absences from the State,
 79 with subsequent returns to the State or intent to return when the
 80 purposes of the absences have been accomplished, do not interrupt
 81 continuity of residence.

82 1. "State Medicaid Commission" means the Governor, the Com-
 83 missioner of Human Services, the President of the Senate and the
 84 Speaker of the General Assembly, hereby constituted a commission
 85 to approve and direct the means and method for the payment of
 86 claims pursuant to this act.

87 m. "Third party" means any person, institution, corporation,
 88 insurance company, public, private or governmental entity who
 89 is or may be liable in contract, tort, or otherwise by law or equity
 90 to pay all or part of the medical cost of injury, disease or disability
 91 of an applicant for or recipient of medical assistance payable under
 92 this act.

1 5. Section 7 of P. L. 1968, c. 413 (C. 30:4D-7) is amended to
 2 read as follows:

3 7. Duties of commissioner. The commissioner is authorized and
 4 empowered to issue, or to cause to be issued through the Division
 5 of Medical Assistance and Health Services all necessary rules and
 6 regulations and administrative orders, and to do or cause to be
 7 done all other acts and things necessary to secure for the State of
 8 New Jersey the maximum federal participation that is available
 9 with respect to a program of medical assistance, consistent with
 10 fiscal responsibility and within the limits of funds available for
 11 any fiscal year, and to the extent authorized by the medical assis-
 12 tance program plan; to adopt fee schedules with regard to medical
 13 assistance benefits and otherwise to accomplish the purposes of this
 14 act, including specifically the following:

15 a. Subject to the limits imposed by this act, to submit a plan for
 16 medical assistance, as required by Title XIX of the federal Social
 17 Security Act, to the federal Department of Health, Education and
 18 Welfare] and Human Services for approval pursuant to the pro-
 19 visions of such laws; to act for the State in making negotiations
 20 relative to the submission and approval of such plan, to make such
 21 arrangements, not inconsistent with the law, as may be required by
 22 or pursuant to federal law to obtain and retain such approval and
 23 to secure for the State the benefits of the provisions of such law;

24 b. Subject to the limits imposed by this act, to determine the
 25 amount and scope of services to be covered, that the amounts to be
 26 paid are reasonable, and the duration of medical assistance to be
 27 furnished; provided, however, that the department shall provide
 28 medical assistance on behalf of all recipients of categorical assis-
 29 tance and such other related groups as are mandatory under federal
 30 laws and rules and regulations, as they now are or as they may
 31 be hereafter amended, in order to obtain federal matching funds
 32 for such purposes and, in addition, provide medical assistance for

33 the foster children specified in section 3 i. (7) of this act. The
34 medical assistance provided for these groups shall not be less in
35 scope, duration, or amount than is currently furnished such groups,
36 and in addition, shall include at least the minimum services re-
37 quired under federal laws and rules and regulations to obtain
38 federal matching funds for such purposes.

39 The commissioner is authorized and empowered, at such times
40 as he may determine feasible, within the limits of appropriated
41 funds for any fiscal year, to extend the scope, duration, and amount
42 of medical assistance on behalf of these groups of categorical
43 assistance recipients, related groups as are mandatory, and foster
44 children authorized pursuant to section 3 i. (7) of this act, so
45 as to include, in whole or in part, the optional medical services
46 authorized under federal laws and rules and regulations, and the
47 commissioner shall have the authority to establish and maintain the
48 priorities given such optional medical services; provided, however,
49 that medical assistance shall be provided to at least such groups
50 and in such scope, duration, and amount as are required to obtain
51 federal matching funds;

52 The commissioner is further authorized and empowered, at such
53 times as he may determine feasible, within the limits of appropri-
54 ated funds for any fiscal year, to issue, or cause to be issued through
55 the Division of Medical Assistance and Health Services all neces-
56 sary rules, regulations and administrative orders, and to do or
57 cause to be done all other acts and things necessary to implement
58 and administer demonstration projects pursuant to Title XI, Sec-
59 tion 1115 of the federal Social Security Act, including, but not
60 limited to waiving compliance with specific provisions of this act,
61 to the extent and for the period of time the commissioner deems
62 necessary, as well as contracting with any legal entity, including
63 but not limited to corporations organized pursuant to Title 14A,
64 New Jersey Statutes (N. J. S. 14A:1-1 et seq.) [and], Title 15, Re-
65 vised Statutes (R. S. 15:1-1 et seq.) and Title 15A, New Jersey
66 Statutes (N. J. S. 15A:1-1 et seq.) as well as boards, groups,
67 agencies, persons and other public or private entities.

68 c. To administer the provisions of this act;

69 d. To make reports to the federal Department of Health[, Edu-
70 cation and Welfare] and Human Services as from time to time
71 may be required by such federal department and to the New Jersey
72 Legislature as hereinafter provided;

73 e. To assure that any applicant, qualified applicant or recipient
74 shall be afforded the opportunity for a hearing should his claim for
75 medical assistance be denied, reduced, terminated or not acted upon
76 within a reasonable time;

77 f. To assure that providers shall be afforded the opportunity for
78 an administrative hearing within a reasonable time on any valid
79 complaint arising out of the claims payment process;

80 g. To provide safeguards to restrict the use or disclosure of
81 information concerning applicants and recipients to purposes
82 directly connected with administration of this act;

83 h. To take all necessary action to recover any and all payments
84 incorrectly made to or illegally received by a provider from such
85 provider or his estate or from any other person, firm, corporation,
86 partnership or entity responsible for or receiving the benefit or
87 possession of the incorrect or illegal payments or their estates,
88 successors or assigns, and to assess and collect such penalties as
89 are provided for herein;

90 i. To take all necessary action to recover the cost of benefits
91 incorrectly provided to or illegally obtained by a recipient, includ-
92 ing those made after a voluntary divestiture of real or personal
93 property or any interest or estate in property for less than adequate
94 consideration made for the purpose of qualifying for assistance.
95 *The division shall take action to recover the cost of benefits from*
96 **[such]** a recipient, legally responsible relative, representative
97 payee, or any other party or parties whose action or inaction
98 resulted in the incorrect or illegal payments *or who received the*
99 *benefit of the divestiture*, or from their respective estates, as the
100 case may be and to assess and collect **[such]** the penalties as are
101 provided for herein, except that no lien **[may]** *shall* be imposed
102 against property of the recipient prior to his death except in ac-
103 cordance with section 17 of P. L. 1968, c. 413 (C.30:4D-17)**[;**
104 provided, however, that no**]**. *No* recovery action shall be initiated
105 **[5]** *more than five* years after an incorrect payment has been made
106 to a recipient when **[such]** the incorrect payment was due solely
107 to an error on the part of the State or any agency, agent or sub-
108 division thereof;

109 j. To take all necessary action to recover the cost of benefits
110 correctly provided to a recipient from the estate of said recipient in
111 accordance with sections 6 through 12 of this amendatory and
112 supplementary act;

113 k. To take all reasonable measures to ascertain the legal or
114 equitable liability of third parties to pay for care and services
115 (available under the plan) arising out of injury, disease, or dis-
116 ability; where it is known that a third party has a liability, to treat
117 such liability as a resource of the individual on whose behalf the
118 care and services are made available for purposes of determining
119 eligibility; and in any case where such a liability is found to exist

120 after medical assistance has been made available on behalf of the
121 individual, to seek reimbursement for such assistance to the extent
122 of such liability;

123 l. To compromise, waive or settle and execute a release of any
124 claim arising under this act including interest or other penalties,
125 or designate another to compromise, waive or settle and execute
126 a release of any claim arising under this act. The commissioner or
127 his designee whose title shall be specified by regulation may com-
128 promise, settle or waive any such claim in whole or in part, either
129 in the interest of the Medicaid program or for any other reason
130 which the commissioner by regulation shall establish;

131 m. To pay or credit to a provider any net amount found by
132 final audit as defined by regulation to be owing to the provider.
133 Such payment, if it is not made within 45 days of the final audit,
134 shall include interest on the amount due at the maximum legal rate
135 in effect on the date the payment became due, except that such
136 interest shall not be paid on any obligation for the period preceding
137 September 15, 1976. This subsection shall not apply until federal
138 financial participation is available for such interest payments;

139 n. To issue, or designate another to issue, subpoenas to compel
140 the attendance of witnesses and the production of books, records,
141 accounts, papers and documents of any party, whether or not that
142 party is a provider, which directly or indirectly relate to goods or
143 services provided under this act, for the purpose of assisting in
144 any investigation, examination, or inspection, or in any suspension,
145 debarment, disqualification, recovery, or other proceeding arising
146 under this act;

147 o. To solicit, receive and review bids pursuant to the provisions
148 of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and
149 supplements thereto, by authorized insurance companies and non-
150 profit hospital service corporations or medical service corpora-
151 tions, incorporated in New Jersey, and authorized to do business
152 pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940,
153 c. 74 (C. 17:48A-1 et seq.), and to make recommendations in con-
154 nection therewith to the State Medicaid Commission;

155 p. To contract, or otherwise provide as in this act provided, for
156 the payment of claims in the manner approved by the State Medic-
157 aid Commission;

158 q. Where necessary, to advance funds to the underwriter or fiscal
159 agent to enable such underwriter or fiscal agent, in accordance with
160 terms of its contract, to make payments to providers;

161 r. To enter into contracts with federal, State, or local govern-
162 mental agencies, or other appropriate parties, when necessary to
163 carry out the provisions of this act;

164 s. To assure that the nature and quality of the medical assistance
 165 provided for under this act shall be uniform and equitable to all
 166 recipients.

1 6. (New section) a. No person shall at any time knowingly charge,
 2 solicit, accept or receive, in addition to any amount otherwise re-
 3 quired to be paid under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) any
 4 gift, money, donation***[**, voluntary contribution**]*** or other consid-
 5 eration other than a charitable, religious, or philanthropic contribu-
 6 tion from an organization or from a person unrelated to the
 6A patient *as a precondition of admitting a patient to a skilled*
 6B *nursing facility or intermediate care facility** *****or as a require-*
 7 *ment for a patient's continued stay in the facility***** when the cost
 8 of the services provided therein to the patient is paid for in whole
 9 or in part under ******[**this act**]****** **** P. L. 1968, c. 413 (C.
 9A 30:4D-1 et seq.)****. A person who violates this subsection is guilty
 9B of a crime of the third degree.

10 b. No person shall knowingly require as a condition of accepting
 11 payment under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) that a person
 12 financially eligible for benefits or his family member pay or enter
 13 into an agreement to pay as a private patient at a skilled nursing
 14 or intermediate care facility for any period. A person who vio-
 15 lates this subsection is guilty of a crime of the third degree.

16 c. No person shall knowingly require as a condition of continued
 17 stay at a skilled nursing facility or intermediate care facil-
 18 ity******[**,**]****** that a person financially eligible for benefits under
 19 P. L. 1968, c. 413 (C. 30:4D-1 et seq.) or his family member pay
 20 any sum of money, or other consideration, including the furnishing
 21 of an agreement by a family member which obligates that party to
 22 pay for care rendered a financially eligible person. A person who
 23 violates this subsection is guilty of a crime of the third degree.

23A **d. The provisions of subsections a., b. and c. of this section shall*
 23B *not apply to agreements to provide continuing care between a life*
 23C *care community, as defined by regulation, and a person financially*
 23D *eligible for benefits under P. L. 1968, c. 413 (C. 30:4D-1 et seq.).**

24 ***[d.]** **e.** Any person who violates subsection a. of this section
 25 ******[**shall**]******, in addition to any other penalties provided by
 26 law, ******[**be**]****** *****is civilly***** liable: (1) to the paying indi-
 27 vidual for the amount of any gift, money, donation, ******[**, volun-
 28 tary contribution**]****** or other consideration, and for interest on
 29 the amount of *****any***** gift, money, donation******[**, voluntary
 30 contribution**]****** or other consideration at the maximum legal rate
 31 in effect on the date of payment; (2) to the State for payment of
 32 any amount not to exceed three fold the amount of any gift, money,

33 donation******[** voluntary contribution**]****** or other consideration
 34 referred to in subsection a. of this section; and (3) to the State for
 35 payment in the sum of \$5,000.00 for each claim submitted for re-
 36 imbursement for a period in which a gift, money, donation******[**
 37 voluntary contribution**]****** or other consideration referred to in
 38 subsection a. of this section was charged, solicited, accepted, or
 39 received.

40 ***[e.]*** *f.* Any person who violates subsections b. or c. of this
 41 section in addition to any other penalties provided by law
 42 ******[shall be]****** *****is civilly***** liable to****:**** the paying
 43 individual for the amount paid on behalf of a financially eligible
 44 person plus interest at the maximum legal rate in effect on the date
 45 of payment *****and attorney's fees*****; and to the State for pay-
 46 ment of a penalty in the amount of \$5,000.00.

47 ****g. *The Attorney General may bring a civil action in the name*
 48 *of the paying individual and the Department of Human Services*
 49 *for the collection and enforcement of civil penalties provided for*
 50 *in this section.*

51 *A paying individual may bring a civil action in the Superior*
 52 *Court to enforce his rights under this section.*

53 *A civil penalty incurred pursuant to this section may be recovered*
 54 *with costs in a summary proceeding pursuant to "the penalty en-*
 55 *forcement law," N. J. S. 2A:58-1 et seq.*****

1 7. (New section) If an applicant is determined to be eligible
 2 under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) retroactively and the
 3 provider bills the applicant directly for the services and benefits
 4 rendered during the retroactive period, the provider shall, upon
 5 notification of the applicant's retroactive eligibility, submit claims
 6 for reimbursement for covered services or benefits rendered during
 7 the retroactive period. Upon certification that the applicant is so
 8 eligible, the provider shall reimburse the applicant or other person
 9 who has made prior payment to the provider.

1 8. (New section) ******[**Any paying individual under this act may
 2 bring an action in the Superior Court to enforce any rights under
 3 this act. The court, upon finding violations of this act, shall award
 4 compensatory damages or \$500.00 for each violation, whichever
 5 is greater, to complainants. If the violation is of a continuing
 6 nature, each day during which it continues shall constitute an
 7 additional separate and distinct offense. The court shall also award
 8 such equitable relief as is necessary and appropriate to effectuate
 9 the purposes of this act.**]****** *****The commissioner may establish*
 10 *adjusted reimbursement rates for skilled nursing and intermediate*
 11 *care facilities which experience financial hardship due to an aver-*

12 age monthly Medicaid recipient census in excess of a percentage of
 13 licensed bed capacity as determined by the commissioner. The ad-
 14 justed rates shall be adopted pursuant to the "Administrative
 15 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.).****

1 *****9. (New section) a. If a skilled nursing or intermediate
 2 care facility notifies the commissioner within 180 days following
 3 the date of enactment of this amendatory and supplementary act
 4 that the facility shall no longer be a Medicaid provider and that
 5 the facility has one or more Medicaid eligible patients residing
 6 therein, the commissioner may, at the request of the facility, permit
 7 the facility to continue to provide skilled nursing or intermediate
 8 care services to those Medicaid eligible patients residing therein
 9 without being required to admit any new Medicaid eligible patients.

10 The commissioner may grant a facility's request to do so if the
 11 request is in the best interests of the Medicaid eligible patients re-
 12 siding therein. For the period of time that the Medicaid eligible
 13 patients continue to reside in the facility, that facility shall comply
 14 with all applicable provisions of P. L. 1968, c. 413 (C. 30:4D-1 et
 15 seq.).

16 b. If a skilled nursing or intermediate care facility which with-
 17 draws as a Medicaid provider pursuant to this section subsequently
 18 reapplies to the department to become a Medicaid provider, the
 19 commissioner may require as a condition of becoming a Medicaid
 20 provider that the facility enter into a three year Medicaid provider
 21 contract with the department.*****

1 *****[9.]***** *****10.***** (New section) There is appropri-
 2 ated \$13,000,000.00 from the General Fund to the Department of
 3 Human Services. These funds are to be deposited in a newly es-
 4 tablished contingency account within the Division of Medical Assis-
 5 tance and Health Services. No funds shall be expended without the
 6 submission of adequate documentation as to the need for these funds
 7 to effect the purpose of this act and without the approval of the
 8 Director of the Division of Budget and Accounting who shall consult
 9 with the Legislative Budget Officer prior to authorizing expendi-
 10 tures.

1 *****[10.]***** *****11.***** (New section) There is appro-
 2 priated \$25,000.00 from the General Fund to the Department of
 3 Law and Public Safety to effectuate the purposes of this act.

1 *****[11.]***** *****12.***** (New section) Each ****[hos-
 2 pital,]**** skilled nursing facility****[,]**** and intermediate
 3 care facility shall post a statement of the provisions of this
 4 ****[1984]**** amendatory and supplementary act that apply to
 5 that facility in a prominent place in the facility, and a copy of the

6 statement shall be given to each person who applies for admission
7 at the time of application.

1 *****[*****12.]***** *****13.***** (New section) The Com-
2 missioner of Human Services shall report annually to the Governor
3 and the Legislature on the effect of the provisions of this amenda-
4 tory and supplementary act on reducing the shortage of skilled
5 nursing and intermediate care facility bed space for Medicaid re-
6 cipients, the status of the availability of bed space throughout the
7 State and whether any additional admissions requirements are
8 necessary to ensure an adequate number of skilled nursing and inter-
9 mediate care facility beds for Medicaid eligible persons.*****

1 *****[12.]***** *****[*****13.*****]***** *****14.***** This act
2 shall take effect * [immediately] * on the *****[180th]*****
3 *****90th***** day following enactment* *****except that section 6
4 of this amendatory and supplementary act shall take effect immedi-
5 ately*****.

ASSEMBLY, No. 1829

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1984

By Assemblyman OTLOWSKI

AN ACT concerning patients in certain health care facilities, amending P. L. 1945, c. 169, supplementing P. L. 1968, c. 413 (C. 30:4D-1 et seq.), and making an appropriation therefor.

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

1 1. Section 11 of P. L. 1945, c. 169 (C. 10:5-12) is amended to
2 read as follows:

3 11. It shall be unlawful employment practice, or, as the case may
4 be, an unlawful discrimination:

5 a. For an employer, because of the race, creed, color, national
6 origin, ancestry, age, marital status, sex or atypical hereditary
7 cellular or blood trait of any individual, or because of the liability
8 for service in the Armed Forces of the United States or the na-
9 tionality of any individual, to refuse to hire or employ or to bar
10 or to discharge from employment such individual or to discriminate
11 against such individual in compensation or in terms, conditions
12 or privileges of employment; provided, however, it shall not be
13 an unlawful employment practice to refuse to accept for employ-
14 ment an applicant who has received a notice of induction or orders
15 to report for active duty in the armed forces; provided further
16 that nothing herein contained shall be construed to bar an employer
17 from refusing to accept for employment any person on the basis of
18 sex in those certain circumstances where sex is a bona fide occu-
19 pational qualification, reasonably necessary to the normal operation
20 of the particular business or enterprise; provided further that it

Matter printed in italics thus is new matter.

21 shall not be an unlawful employment practice for a club exclusively
22 social or fraternal to use club membership as a uniform qualifica-
23 tion for employment, or for a religious association or organization
24 to utilize religious affiliation as a uniform qualification in the em-
25 ployment of clergy, religious teachers or other employees engaged
26 in the religious activities of the association or organization, or in
27 following the tenets of its religion in establishing and utilizing
28 criteria for employment of an employee; and provided further that
29 an employer may restrict employment to citizens of the United
30 States where such restriction is required by federal law or is other-
31 wise necessary to protect the national interest.

32 b. For a labor organization, because of the race, creed, color,
33 national origin, ancestry, age, marital status or sex of any
34 individual, or because of the liability for service in the Armed
35 Forces of the United States or nationality of any individual,
36 to exclude or to expel from its membership such individual or to
37 discriminate in any way against any of its members, against any
38 applicant for, or individual included in, any apprentice or other
39 training program or against any employer or any individual em-
40 ployed by an employer; provided, however, that nothing herein
41 contained shall be construed to bar a labor organization from
42 excluding from its apprentice or other training programs any
43 person on the basis of sex in those certain circumstances where sex
44 is a bona fide occupational qualification reasonably necessary to
45 the normal operation of the particular apprentice or other training
46 program.

47 c. For any employer or employment agency to print or circulate
48 or cause to be printed or circulated any statement, advertisement
49 or publication, or to use any form of application for employment,
50 or to make an inquiry in connection with prospective employment,
51 which expresses, directly or indirectly, any limitation, specification
52 or discrimination as to race, creed, color, national origin, ancestry,
53 age, marital status or sex or liability of any applicant for employ-
54 ment for service in the Armed Forces of the United States, or
55 any intent to make any such limitation, specification or discrim-
56 ination, unless based upon a bona fide occupational qualification.

57 d. For any person to take reprisals against any person because
58 he has opposed any practices or acts forbidden under this act or
59 because he has filed a complaint, testified or assisted in any pro-
60 ceeding under this act.

61 e. For any person, whether an employer or an employee or not,
62 to aid, abet, incite, compel or coerce the doing of any of the acts
63 forbidden under this act, or to attempt to do so.

64 f. For any owner, lessee, proprietor, manager, superintendent,
65 agent, or employee of any place of public accommodation directly
66 or indirectly to refuse, withhold from or deny to any person any
67 of the accommodations, advantages, facilities or privileges thereof,
68 or to discriminate against any person in the furnishing thereof,
69 or directly or indirectly to publish, circulate, issue, display, post or
70 mail any written or printed communication, notice, or advertise-
71 ment to the effect that any of the accommodations, advantages,
72 facilities, or privileges of any such place will be refused, withheld
73 from, or denied to any person on account of the race, creed, color,
74 national origin, ancestry, marital status, sex or nationality of
75 such person, or that the patronage or custom thereof of any per-
76 son of any particular race, creed, color, national origin, ancestry,
77 marital status, sex or nationality is unwelcome, objectionable or
78 not acceptable, desired or solicited, and the production of any
79 such written or printed communication, notice or advertisement,
80 purporting to relate to any such place and to be made by any
81 owner, lessee, proprietor, superintendent or manager thereof, shall
82 be presumptive evidence in any action that the same was authorized
83 by such person; provided, however, that nothing contained herein
84 shall be construed to bar any place of public accommodation which
85 is in its nature reasonably restricted exclusively to individuals
86 of one sex, and which shall include but not be limited to any summer
87 camp, day camp, or resort camp, bathhouse, dressing room, swim-
88 ming pool, gymnasium, comfort station, dispensary, clinic or
89 hospital, or school or educational institution which is restricted
90 exclusively to individuals of one sex, from refusing, withholding
91 from or denying to any individual of the opposite sex any of the
92 accommodations, advantages, facilities or privileges thereof on the
93 basis of sex; provided further, that the foregoing limitation shall
94 not apply to any restaurant as defined in R. S. 33:1-1 or place
95 where alcoholic beverages are served.

96 g. For the owner, lessee, sublessee, assignee or managing agent
97 of, or other person having the right of ownership or possession of
98 or the right to sell, rent, lease, assign, or sublease any real property
99 or part or portion thereof, or any agent or employee of any of these:
100 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
101 to deny to or withhold from any person or group of persons any
102 real property or part or portion thereof because of the race, creed,
103 color, national origin, ancestry, marital status, sex or nationality
104 of such person or group of persons;
105 (2) To discriminate against any person or group of persons
106 because of the race, creed, color, national origin, marital status

107 or sex of such person or group of persons in the terms, conditions
108 or privileges of the sale, rental or lease of any real property or part
109 or portion thereof or in the furnishing of facilities or services in
110 connection therewith; or

111 (3) To print, publish, circulate, issue, display, post or mail, or
112 cause to be printed, published, circulated, issued, displayed, posted
113 or mailed any statement, advertisement, publication or sign, or to
114 use any form of application for the purchase, rental, lease, assign-
115 ment or sublease of any real property or part or portion thereof,
116 or to make any record or inquiry in connection with the prospective
117 purchase, rental, lease, assignment, or sublease of any real prop-
118 erty, or part or portion thereof which expresses, directly or in-
119 directly, any limitation, specification or discrimination as to race,
120 creed, color, national origin, ancestry, marital status, sex or
121 nationality or any intent to make any such limitation, specification
122 or discrimination, and the production of any such statement, ad-
123 vertisement, publicity, sign, form of application, record, or inquiry
124 purporting to be made by any such person shall be presumptive
125 evidence in any action that the same was authorized by such person;
126 provided, however, that nothing contained in this subsection shall
127 be construed to bar any person from refusing to sell, rent, lease,
128 assign or sublease or from advertising or recording a qualification
129 as to sex for any room, apartment, flat in a dwelling or residential
130 facility which is planned exclusively for and occupied by individuals
131 of one sex to any individual of the exclusively opposite sex on the
132 basis of sex.

133 h. For any real estate broker, real estate salesman or employee
134 or agent thereof:

135 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
136 sale, rental, lease, assignment, or sublease any real property or part
137 or portion thereof to any person or group of persons or to refuse
138 to negotiate for the sale, rental, lease, assignment, or sublease of
139 any real property or part or portion thereof to any person or group
140 of persons because of the race, creed, color, national origin, an-
141 cestry, marital status, sex or nationality of such person or group
142 of persons, or to represent that any real property or portion thereof
143 is not available for inspection, sale, rental, lease, assignment, or
144 sublease when in fact it is so available, or otherwise to deny or with-
145 hold any real property or any part or portion of facilities thereof
146 to or from any person or group of persons because of the race,
147 creed, color, national origin, ancestry, marital status, sex or
148 nationality of such person or group of persons;

149 (2) To discriminate against any person because of his race,
150 creed, color, national origin, ancestry, marital status or sex in the
151 terms, conditions or privileges of the sale, rental, lease, assignment
152 or sublease of any real property or part or portion thereof or in
153 the furnishing of facilities or services in connection therewith; or

154 (3) To print, publish, circulate, issue, display, post, or mail, or
155 cause to be printed, published, circulated, issued, displayed, posted
156 or mailed any statement, advertisement, publication or sign, or
157 to use any form of application for the purchase, rental, lease,
158 assignment, or sublease of any real property or part or portion
159 thereof or to make any record or inquiry in connection with the pro-
160 spective purchase, rental, lease, assignment, or sublease of any real
161 property or part or portion thereof which expresses, directly or
162 indirectly, any limitation, specification or discrimination as to
163 race, creed, color, national origin, ancestry, marital status, sex
164 or nationality or any intent to make any such limitation, specifica-
165 tion or discrimination, and the production of any such statement,
166 advertisement, publicity, sign, form of application, record, or
167 inquiry purporting to be made by any such person shall be pre-
168 sumptive evidence in any action that the same was authorized by
169 such person; provided, however, that nothing contained in this
170 subsection h., shall be construed to bar any person from refusing
171 to sell, rent, lease, assign or sublease or from advertising, or
172 recording a qualification as to sex for any room, apartment, flat
173 in a dwelling or residential facility which is planned exclusively
174 for and occupied exclusively by individuals of one sex to any in-
175 dividual of the opposite sex on the basis of sex.

176 i. For any person, bank, banking organization, mortgage com-
177 pany, insurance company or other financial institution, lender or
178 credit institution to whom application is made for any loan or
179 extension of credit including but not limited to an application for
180 financial assistance for the purchase, acquisition, construction,
181 rehabilitation, repair or maintenance of any real property or part
182 or portion thereof or any agent or employee thereof:

183 (i) To discriminate against any person or group of persons
184 because of the race, creed, color, national origin, ancestry, marital
185 status, sex or nationality of such person or group of persons or
186 of the prospective occupants or tenants of such real property
187 or part or portion thereof, in the granting, withholding, extending,
188 modifying or renewing, or in the fixing of the rates, terms, con-
189 ditions or provisions of any such loan, extension of credit or
190 financial assistance or in the extension of services in connection
191 therewith; or

192 (2) To use any form of application for such loan, extension
193 of credit or financial assistance or to make record or inquiry
194 in connection with applications for any such loan, extension of
195 credit or financial assistance which expresses, directly or indirectly,
196 any limitation, specification or discrimination as to race, creed,
197 color, national origin, ancestry, marital status, sex or nationality
198 or any intent to make any such limitation, specification or discrim-
199 ination; unless otherwise required by law or regulation to retain
200 or use such information.

201 j. For any person whose activities are included within the scope
202 of this act to refuse to post or display such notices concerning the
203 rights or responsibilities of persons affected by this act as the
204 Attorney General may by regulation require.

205 k. For any real estate broker, real estate salesman or employee
206 or agent thereof or any other individual, corporation, partnership,
207 or organization, for the purpose of inducing a transaction for the
208 sale or rental of real property from which transaction such person
209 or any of its members may benefit financially, to represent that
210 a change has occurred or will or may occur in the composition
211 with respect to race, creed, color, national origin, ancestry, marital
212 status, sex or nationality of the owners or occupants in the block,
213 neighborhood or area in which the real property is located,
214 and to represent, directly or indirectly, that this change will or
215 may result in undesirable consequences in the block, neighborhood
216 or area in which the real property is located, including, but not
217 limited to the lowering of property values, an increase in criminal
218 or anti-social behavior, or a decline in the quality of schools or
219 other facilities.

220 l. For any person to refuse to buy from, sell to, lease from or to,
221 license, contract with, or trade with, provide goods, services or
222 information to, or otherwise do business with any other person on
223 the basis of the race, creed, color, national origin, ancestry, age,
224 sex, marital status, liability for service in the Armed Forces of the
225 United States, or nationality of such other person or of such other
226 person's spouse, partners, members, stockholders, directors, officers,
227 managers, superintendents, agents, employees, business associates,
228 suppliers, or customers. This subsection shall not prohibit refusals
229 or other actions (1) pertaining to employee-employer collective
230 bargaining, labor disputes, or unfair labor practices, or (2) made
231 or taken in connection with a protest of unlawful discrimination
232 or unlawful employment practices.

233 m. For any person to:

234 (1) Grant or accept any letter of credit or other document which
 235 evidences the transfer of funds or credit, or enter into any con-
 236 tract for the exchange of goods or services, where the letter of
 237 credit, contract, or other document contains any provisions requir-
 238 ing any person to discriminate against or to certify that he, she or
 239 it has not dealt with any other person on the basis of the race,
 240 creed, color, national origin, ancestry, age, sex, marital status, lia-
 241 bility for service in the Armed Forces of the United States, or
 242 nationality of such other person or of such other person's spouse,
 243 partners, members, stockholders, directors, officers, managers, su-
 244 perintendents, agents, employees, business associates, suppliers or
 245 customers.

246 (2) Refuse to grant or accept any letter of credit or other docu-
 247 ment which evidences the transfer of funds or credit, or refuse to
 248 enter into any contract for the exchange of goods or services, on
 249 the ground that it does not contain such a discriminatory provision
 250 or certification.

251 The provisions of this subsection shall not apply to any letter of
 252 credit, contract, or other document which contains any provision
 253 pertaining to employee-employer collective bargaining, a labor
 254 dispute or an unfair labor practice, or made in connection with the
 255 protest of unlawful discrimination or an unlawful employment
 256 practice, if the other provisions of such letter of credit, contract,
 257 or other document do not otherwise violate the provisions of this
 258 subsection.

259 n. For any person to aid, abet, incite, compel, coerce, or induce
 260 the doing of any act forbidden by subsections 11 l. and m. of this
 261 act, or to attempt, or to conspire to do so. Such prohibited conduct
 262 shall include, but not be limited to:

263 (1) Buying from, selling to, leasing from or to, licensing, con-
 264 tracting with, trading with, providing goods, services, or informa-
 265 tion to, or otherwise doing business with any person because that
 266 person does, or agrees or attempts to do, any such act or any act
 267 prohibited by this subsection n.; or

268 (2) Boycotting, commercially blacklisting or refusing to buy
 269 from, sell to, lease from or to, license, contract with, provide goods,
 270 services or information to, or otherwise do business with any person
 271 because that person has not done or refuses to do any such act or
 272 any act prohibited by this subsection n.; provided, that, this sub-
 273 section n. shall not prohibit refusals or other actions either per-
 274 taining to employee-employer collective bargaining, labor disputes,
 275 or unfair labor practices, or made or taken in connection with a

276 protest of unlawful discrimination or unlawful employment prac-
277 tices.

278 o. For a skilled nursing or intermediate care facility to deny
279 admission to a person who is qualified to receive skilled nursing or
280 intermediate care facility services which are reimbursable by the
281 Medicaid Program under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) on
282 the basis of source of payment when a nursing home bed becomes
283 available. The Commissioner of Human Services may modify this
284 requirement based on the skilled nursing or intermediate care
285 facility's licensed bed capacity and the financial condition of the
286 facility. The criteria used by the commissioner to modify this re-
287 quirement shall be contained in regulations which he shall adopt
288 pursuant to the provisions of the "Administrative Procedure Act,"
289 P. L. 1968, c. 410 (C. 52:14B-1 et seq.). A list of all skilled nursing
290 home or intermediate care facilities granted a modification by the
291 commissioner shall be published in the New Jersey Register.

1 2. (New section) a. No person, acting in behalf of a hospital,
2 skilled nursing facility, or intermediate care facility, shall at any
3 time knowingly charge, solicit, accept or receive, in addition to
4 any amount otherwise required to be paid under P. L. 1968, c. 413
5 (C. 30:4D-1 et seq.) any gift, money, donation, voluntary contri-
6 bution or other consideration other than a charitable, religious,
7 or philanthropic contribution from an organization or from a per-
8 son unrelated to the patient when the cost of the services provided
9 therein to the patient is paid for in whole or in part under this act.
10 A person who violates this subsection is guilty of a crime of the
11 third degree.

12 b. No person shall knowingly require as a condition of accepting
13 payment under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) that a person
14 financially eligible for benefits or his family member pay or enter
15 into an agreement to pay as a private patient at a skilled nursing
16 or intermediate care facility for any period. A person who vio-
17 lates this subsection is guilty of a crime of the third degree.

18 c. No person shall knowingly require as a condition of continued
19 stay at a skilled nursing facility or intermediate care facility, that
20 a person financially eligible for benefits under P. L. 1968, c. 413
21 (C. 30:4D-1 et seq.) or his family member pay any sum of money,
22 or other consideration, including the furnishing of an agreement
23 by a family member which obligates that party to pay for care
24 rendered a financially eligible person. A person who violates this
25 subsection is guilty of a crime of the third degree.

26 d. Any person who violates subsection a. of this section shall,
27 in addition to any other penalties provided by law, be liable: (1)

28 to the paying individual for the amount of any gift, money, dona-
29 tion, voluntary contribution or other consideration, and for interest
30 on the amount of gift, money, donation, voluntary contribution or
31 other consideration at the maximum legal rate in effect on the date
32 of payment; (2) to the State for payment of any amount not to
33 exceed threefold the amount of any gift, money, donation, volun-
34 tary contribution or other consideration referred to in subsection
35 a. of this section; and (3) to the State for payment in the sum of
36 \$5,000.00 for each claim submitted for reimbursement for a period
37 in which a gift, money, donation, voluntary contribution or other
38 consideration referred to in subsection a. of this section was
39 charged, solicited, accepted, or received.

40 e. Any person who violates subsections b. or c. of this section in
41 addition to any other penalties provided by law shall be liable to
42 the paying individual for the amount paid on behalf of a financially
43 eligible person plus interest at the maximum legal rate in effect
44 on the date of payment; and to the State for payment of a penalty
45 in the amount \$5,000.00.

1 3. (New section) If an applicant is determined to be eligible
2 under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) retroactively and the
3 provider bills the applicant directly for the services and benefits
4 rendered during the retroaction period, the provider shall, upon
5 notification of the applicant's retroactive eligibility submit claims
6 for reimbursement for covered services or benefits rendered during
7 the retroactive period. Upon receipt of the payment, the provider
8 shall reimburse the applicant or other person who has made prior
9 payment to the provider.

1 4. (New section) Any paying individual under this act may bring
2 an action in the Superior Court to enforce any rights under this
3 act. The court, upon finding violations of this act, shall award
4 compensatory damages or \$500.00 for each violation, whichever
5 is greater, to complainants. If the violation is of a continuing
6 nature, each day during which it continues shall constitute an
7 additional separate and distinct offense. The court shall also award
8 such equitable relief as is necessary and appropriate to effectuate
9 the purposes of this act.

1 5. (New section) The Division of Medical Assistance and Health
2 Services shall take all necessary actions to recover the cost of
3 benefits incorrectly provided to or illegally obtained by a recipient,
4 including those made after a voluntary divestiture of real or per-
5 sonal property or any interest or estate in property for less than
6 adequate consideration made for the purpose of qualifying for
7 assistance from a recipient, legally responsible relative, repre-

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8 representative payee, or any other party or parties whose action or
9 inaction resulted in the incorrect or illegal payments, or who re-
10 ceived the benefits of the divestiture, or from their respective
11 estates, as the case may be and to assess and collect such penalties
12 as are provided for herein, except that no lien may be imposed
13 against property of the recipient prior to his death except in ac-
14 cordance with section 17 of P. L. 1968, c. 413 (C. 30:4D-17); and
15 except that no recovery action shall be initiated five years after
16 an incorrect payment has been made to a recipient when the incor-
17 rect payment was due solely to an error on the part of the State
18 or any agency, agent or subdivision thereof.

1 6. (New section) There is appropriated \$595,000.00 from the
2 General Fund to the Department of Human Services. These funds
3 are to be deposited in a newly established contingency account
4 within the Division of Medical Assistance and Health Services.
5 No funds shall be expended without the submission of adequate
6 documentation as to the need for these funds to effect the purpose
7 of this act and without the approval of the Director of the Division
8 of Budget and Accounting who shall consult with the Legislative
9 Budget Officer prior to authorizing expenditures.

1 7. (New section) Each hospital, skilled nursing facility, and in-
2 termediate care facility shall post a statement of the provisions
3 of this 1984 amendatory and supplementary act that apply to that
4 facility in a prominent place in the facility, and a copy of the state-
5 ment shall be given to each person who applies for admission at
6 the time of application.

1 8. This act shall take effect immediately.

STATEMENT

This bill is intended to protect a prospective Medicaid patient or his family or both who cannot afford to pay for his nursing care in a skilled nursing facility or intermediate care facility.

This bill prohibits a skilled nursing facility or an intermediate care facility from denying admission to Medicaid recipients on the basis of source of payment; however, the Commissioner of Human Services may make individual exceptions to this provision based on the licensed bed capacity or the financial condition of a facility.

This bill also prohibits administrators and operators of these facilities from requiring incoming patients or their families or both from signing contracts to stay as private pay patients for a certain period of time prior to being accepted as Medicaid patients.

This bill further prohibits hospitals, skilled nursing facilities and intermediate care facilities from receiving contributions from Medicaid eligible individuals or their families at any time.

Persons who violate the provisions of this bill shall be liable: (1) to the paying individual for the amounts of any gifts, moneys, donations, voluntary contributions or other considerations and for interest on these amounts, or for reimbursed services or benefits received during any retroactive eligibility period and (2) to the State for payment of any amount not to exceed threefold the amount of any gifts, moneys, donations, voluntary contributions or other considerations and a penalty of \$5,000.00 for each claim.

The bill also attempts to deter family members from encouraging their elderly relatives from improperly divesting their assets, and to assure that the elderly relative is not the individual who will suffer the consequences of that divestiture.

The bill appropriates \$595,000.00 to pay for any possible increase in State Medicaid costs; however, because of the uncertainty regarding the possible cost of this bill, the funds shall be deposited in a contingency account. Expenditures from this account shall only be made with the approval of the Director of the Division of Budget and Accounting in consultation with the Legislative Budget Officer.

Finally, each applicant to a hospital, skilled nursing facility, or intermediate care facility shall be notified in writing of the provisions of this act which apply to that facility at the time he applies for admission to the facility, and a similar notice shall be posted in a prominent place in the facility.

ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY Nos. 1829, 872 and 873

STATE OF NEW JERSEY

DATED: JUNE 28, 1984

This Assembly Committee Substitute for Assembly Bill Nos. 1829, 872 and 873 is intended to protect a prospective Medicaid patient or his family or both who cannot afford to pay for his nursing care in a skilled nursing facility or intermediate care facility.

This committee substitute prohibits a skilled nursing facility or an intermediate care facility from denying admission to Medicaid recipients on the basis of source of payment. The Commissioner of Human Services may make individual exceptions to this provision based on the licensed bed capacity or the financial condition of a facility; however, in no case shall he allow the average Medicaid occupancy level of a facility to fall below 35% of the licensed bed capacity of that facility. The commissioner shall annually issue a report to the Corrections, Health and Human Services Committee and to the Senate Institutions, Health and Welfare Committee, as well as to the Governor, stating in specific detail the adverse financial condition of a facility which he exempts from this provision.

The committee substitute further prohibits hospitals, skilled nursing facilities and intermediate care facilities from receiving contributions from Medicaid eligible individuals or their families at any time. Nothing in this substitute is intended to deter a hospital or nursing home from seeking community support in the form of voluntary contributions or donations to support the acquisition or development of capital assets such as buildings, beds and equipment or soliciting among all patients and their family members as part of a general fund raising campaign on behalf of the facility.

Persons who violate the provisions herein shall be liable: (1) to the paying individual for the amounts of any gifts, moneys, donations, voluntary contributions or other considerations and for interest on these amounts, or for reimbursed services or benefits received during any retroactive eligibility period and (2) to the State for payment of any amount not to exceed threefold the amount of any gifts, moneys, dona-

tions, voluntary contributions or other considerations and a penalty of \$5,000.00 for each claim.

In addition, the committee substitute amends the Medicaid law to prohibit persons from voluntarily divesting within 24 months of applying for Medicaid real or personal assets for less than market value for the purpose of qualifying for Medicaid. It further authorizes the State to seek recovery of improperly paid Medicaid benefits from the person who benefited from the divestiture of assets, rather than just the elderly person who may no longer have any assets. This provision is intended to deter family members from encouraging their elderly relatives to improperly divest their assets and assure that the elderly relative is not the individual who will suffer the consequences of the divestiture.

The committee substitute appropriates \$13,000,000.00 to pay for any possible increase in State Medicaid costs; however, because of the uncertainty regarding the possible cost of this bill, the funds shall be deposited in a contingency account. Expenditures from this account shall only be made with the approval of the Director of the Division of Budget and Accounting in consultation with the Legislative Budget Officer.

The committee substitute also appropriates \$25,000.00 to the Department of Law and Public Safety to assist the Division on Civil Rights in carrying out its responsibility to protect Medicaid recipients who apply to nursing homes from discrimination on the basis of source of payment.

Finally, this measure provides that each applicant to a hospital, skilled nursing facility, or intermediate care facility shall be notified in writing of the provisions herein which apply to that facility at the time he applies for admission to the facility, and a similar notice shall be posted in a prominent place in the facility.

ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY Nos. 1829, 872 and 873
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1984

This Assembly Committee Substitute for Assembly Bill Nos. 1829, 872 and 873 is intended to protect a prospective Medicaid patient or his family or both who cannot afford to pay for his nursing care in a skilled nursing facility or intermediate care facility.

This committee substitute prohibits a skilled nursing facility or an intermediate care facility from denying admission to Medicaid recipients on the basis of source of payment. The Commissioner of Human Services may make individual exceptions to this provision based on the licensed bed capacity or the financial condition of a facility; however, in no case shall he allow the average Medicaid occupancy level of a facility to fall below 35% of the licensed bed capacity of that facility. The commissioner shall annually issue a report to the Corrections, Health and Human Services Committee and to the Senate Institutions, Health and Welfare Committee, as well as to the Governor, stating in specific detail the adverse financial condition of a facility which he exempts from this provision.

As amended in committee, the committee substitute further prohibits hospitals, skilled nursing facilities and intermediate care facilities from receiving gifts, moneys or donations from Medicaid eligible individuals or their families as a precondition of admission or continued stay in the facility. Nothing in this substitute is intended to deter a hospital or nursing home from seeking community support in the form of voluntary contributions or donations to support the acquisition or development of capital assets such as buildings, beds and equipment or soliciting among all patients and their family members as part of a general fund raising campaign on behalf of the facility.

Persons who violate the provisions herein shall be liable: (1) to the paying individual for the amounts of any gifts, moneys, donations, voluntary contributions or other considerations and for interests on these amounts, or for reimbursed services or benefits received during any retroactive eligibility period and (2) to the State for payment of any amount not to exceed threefold the amount of any gifts, moneys,

donations, voluntary contributions or other considerations and a penalty of \$5,000.00 for each claim.

In addition, the committee substitute amends the Medicaid law to prohibit persons from voluntarily divesting within 24 months of applying for Medicaid real or personal assets for less than market value for the purpose of qualifying for Medicaid. It further authorizes the State to seek recovery of improperly paid Medicaid benefits from the person who benefited from the divestiture of assets, rather than just the elderly person who may no longer have any assets. This provision is intended to deter family members from encouraging their elderly relatives to improperly divest their assets and assure that the elderly relative is not the individual who will suffer the consequences of the divestiture.

The committee substitute appropriates \$13,000,000.00 to pay for any possible increase in State Medicaid costs; however, because of the uncertainty regarding the possible cost of this bill, the funds shall be deposited in a contingency account. Expenditures from this account shall only be made with the approval of the Director of the Division of Budget and Accounting in consultation with the Legislative Budget Officer.

The committee substitute also appropriates \$25,000.00 to the Department of Law and Public Safety to assist the Division on Civil Rights in carrying out its responsibility to protect Medicaid recipients who apply to nursing homes from discrimination on the basis of source of payment.

Finally, this measure provides that each applicant to a hospital, skilled nursing facility, or intermediate care facility shall be notified in writing of the provisions herein which apply to that facility at the time he applies for admission to the facility, and a similar notice shall be posted in a prominent place in the facility.

The committee amended the bill at the request of the sponsor to allow a life care community to contract with its own residents for prior rights to long-term care beds in that community; to specify that religiously affiliated nursing homes may use religious affiliation as a uniform qualification for admission; to allow for truly voluntary contributions to nursing homes; to clarify that nursing homes may not charge, solicit, accept or receive gifts, moneys, and donations from a Medicaid-eligible recipient or his family that are given as a precondition of admission, and to exempt life care communities from this prohibition; and to change the effective date of this committee substitute to the 180th day following enactment.

It is the intent of the committee and the sponsors of this legislation that prospective patients desiring admission to nursing homes, whether

they be Medicaid-eligible recipients or patients paying privately, be accepted on a first-come, first-serve basis in the order in which they apply, except when a home has been granted a waiver under the provisions of the bill or has a Medicaid occupancy rate above the Statewide Medicaid occupancy rate. This provision conforms with other non-discrimination sections in civil rights law pertaining to housing and employment.

ASSEMBLY Amendments
 PROPOSED BY ASSEMBLYMAN OTLOWSKI

ADOPTED
 JAN 24 1985

(2nd to OCR)
 ASSEMBLY COMMITTEE SUBSTITUTE FOR
 ASSEMBLY Bill Nos. 1829, 872 and
 873 ~~2nd OCR~~

SPONSORED BY ASSEMBLYMAN OTLOWSKI

Amend:

Page	Sec.	Line	
13	2	280	Omit "as determined by the Commissioner of Human Services"
13	2	299	After "means" Omit entirely and Omit line 300 entirely and Omit "in the State divided by" on line 301 Insert "45% of"
13	2	302	After "State" Insert "for the first year, following the effective date of this act, 50% for the second year following the effective date of this act, and 55% beginning on the date two years from the effective date of this act"
13	2	302	After "State." Omit entirely
13	2	303-304	Omit entirely
14	2	305-306	Omit entirely
14	2	307	Omit "each year."

S T A T E M E N T

These amendments would change the definition of Medicaid occupancy level in the committee substitute from the Statewide average of Medicaid recipients residing in skilled nursing or intermediate care facilities as determined by the Commissioner of Human Services to a fixed percentage which would increase over a three-year period, from 45% of the total number of licensed skilled nursing and intermediate care facility beds in the State for the first year in which the substitute is in effect, to 50% in the second year and 55% in the third year and beyond.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY Nos. 1829, 872 and 873

[THIRD OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 1985

This bill is intended to protect a prospective Medicaid patient or his family or both who cannot afford to pay for care in a skilled nursing facility or intermediate care facility with private income or assets.

The bill amends the State "Law Against Discrimination" (P. L. 1945, c. 169) to prohibit a skilled nursing facility or an intermediate care facility from denying admission to Medicaid recipients on the basis of source of payment when the facility's Medicaid occupancy level is less than the Statewide occupancy level. The Statewide occupancy level is defined as 45% of the total number of licensed skilled nursing and intermediate care facility beds in the State during the first year following the effective date, 50% during the second year, and 55% thereafter. The Commissioner of Human Services shall make individual exceptions to this provision based on the licensed bed capacity or the financial condition of a facility; however, in no case shall he allow the average Medicaid occupancy level of a facility to fall below 35% of the licensed bed capacity of that facility. The commissioner shall annually issue a report to the legislative reference committees on human services, as well as to the Governor, stating in specific detail the adverse financial condition of a facility which he exempts from this provision. Clarifications of the admission provision are specified for life care communities and religiously affiliated nursing homes.

The bill supplements the "New Jersey Medical Assistance and Health Services Act" (P. L. 1968, c. 413) to further prohibit a facility from soliciting, demanding or receiving gifts, moneys or donations from Medicaid eligible individuals or their families as a precondition of admission or continued stay in the facility, including a ban on "private pay" contracts. The bill prescribes civil and criminal penalties for violations of these provisions. The bill is not intended to deter a facility from seeking community support in the form of voluntary contributions or donations to support the acquisition or development of capital assets such as buildings, beds and equipment or soliciting among all patients

and their family members as part of a general fund raising campaign on behalf of the facility.

The bill also amends P. L. 1968, c. 413 to prohibit persons from voluntarily divesting, within 24 months of applying for Medicaid, real or personal assets for less than market value for the purpose of qualifying for Medicaid. It further authorizes the State to seek recovery of improperly paid Medicaid benefits from the person who benefited from the divestiture of assets, rather than just the elderly person who may no longer have any assets. This provision is intended to deter family members from encouraging their elderly relatives to improperly divest their assets and assure that the elderly relative is not the individual who will suffer the consequences of the divestiture.

FISCAL IMPACT:

The bill appropriates \$13,000,000.00 from the General Fund to the Department of Human Services to pay for the State share of a projected increase in Medicaid costs. However, due to uncertainties regarding the eventual cost, and especially the phasing of that cost, the funds are to be deposited in a newly established contingency account. Expenditures are to be made only with adequate supporting documentation and only with the approval of the Director of the Division of Budget and Accounting, who shall consult with the Legislative Budget Officer.

An appropriation of \$25,000.00 is made to the Department of Law and Public Safety to enable the Division on Civil Rights to carry out its responsibilities under this legislation.

5-2 85

SENATE
FLOOR Amendments

PROPOSED BY SENATOR CODEY

ASSEMBLY^{to} COMMITTEE SUBSTITUTE FOR

ASSEMBLY Bill No. 1829, 872, 873 3 OCR

Amend:

Page	Sec.	Line
22	12	2

After "enactment" Insert "except that section 6 of this amendatory and supplementary act shall take effect immediately"

NOTE TO PRINTER / *convert printer's error*

On page 18, section 5, line 64
Insert right bracket after "and"

S T A T E M E N T

These amendments add the following new provisions and make this bill identical to Senate Bill 1515 as that bill was amended by the Senate.

1. Delete the specified Statewide occupancy levels for the second and third years and instead require the Commissioner of Human Services to determine the level each year and notify the members of the Senate I.H.W. Committee and the Assembly C.H.H.S. Committee of his determination.

The amendments in this section also exempt a facility which has both a residential unit and a nursing unit from the discrimination provision in the case of transfer of a resident from the residential unit to the nursing unit.

SENATE
FLOOR Amendments

PROPOSED BY SENATOR CODEY

to

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY Bill No. 1829, 872, 873 3 OCR

Amend:

Page	Sec.	Line
------	------	------

2. Permit the Commissioner of Human Services to establish adjusted reimbursement rates for nursing facilities which experience financial hardship due to a high Medicaid patient census in the facility;

3. Require the Commissioner of Human Services to report to the Governor and Legislature annually on the effectiveness of the act in reducing the Medicaid nursing home bed shortage and the need for additional admissions requirements; and

4. Change the effective date of the act from 180 days to 90 days after enactment and provide that the prohibition on private pay contracts shall take effect immediately.

The amendments also make various technical changes in the bill to clarify the sponsor's intent. These amendments include changing the term "Medicaid eligible recipient" in section 2 to "qualified Medicaid applicant;" omitting references to "voluntary contribution" in section 6 to make the section consistent; and clarifying the civil liability provisions of section 6.

6-17-85

SENATE
~~FLOOR~~ Amendments

PROPOSED BY SENATOR HAGEDORN

to

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY Bill No. 1829, 872, 873 3rd OCR SR

SPONSORED BY SENATOR CODEY

Amend:

Page	Sec.	Line
23	9-13	1
13	2	278

three year Medicaid provider contract with the department.

Renumber "9.", "10.", "11.", "12.", and "13." and "10.", "11.", "12.", "13.", and "14."

STATEMENT

These amendments permit a nursing facility which has given notice to the Commissioner ^{of} Human Services of its intent to drop out of Medicaid (participation by providers is voluntary) to continue to serve those Medicaid patients who presently reside at the facility without having to admit any new Medicaid patients and thus avoid the necessity of transferring its present Medicaid patients out of the facility when the Medicaid participation is terminated. The amendments also authorize the commissioner to require a provider which drops out of Medicaid and later chooses to participate in the program, again, to sign a three-year provider contract instead of the usual one year contract. ✓

Omit "a." after " (New section)

ASSEMBLY, No. 872

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1984

By Assemblymen GALLO, GILL, FRANKS, DEVERIN, LONG,
DORIA, HAYTAIAN and VISOTCKY

A SUPPLEMENT to the "New Jersey Medical Assistance and Health Services Act," approved January 15, 1969 (P. L. 1968, c. 413; C. 30:4D-1 et seq.) and making an appropriation.

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

1 1. a. No person shall knowingly charge, solicit, accept or receive,
2 in addition to any amount otherwise required to be paid under P. L.
3 1968, c. 413 (C. 30:4D-1 et seq.) any gift, money, donation, or other
4 consideration other than a charitable, religious, or philanthropic
5 contribution from an organization or from a person unrelated to
6 the patient, (1) as a precondition of admitting a patient to a
7 hospital, skilled nursing facility, or intermediate care facility or (2)
8 as a requirement for a patient's continued stay in these facilities,
9 when the cost of the services provided therein to the patient is paid
10 for in whole or in part under this act. A person who violates this
11 subsection is guilty of a crime of the third degree.

12 b. No person shall knowingly require as a condition of accepting
13 payment under P. L. 1968, c. 413 (C. 30:4D-1 et seq.) that a person
14 financially eligible for benefits or his family member pay or enter
15 into an agreement to pay as a private patient at a skilled nursing or
16 intermediate care facility for any period. A person who violates
17 this subsection is guilty of a crime of the third degree.

18 c. No person shall knowingly require as a condition of continued
19 stay at a skilled nursing facility or intermediate care facility, that a
20 person financially eligible for benefits under P. L. 1968, c. 413 (C.

21 30:4D-1 et seq.) or his family member pay any sum of money, or
22 other consideration, including the furnishing of an agreement by a
23 family member which obligates that party to pay for care rendered
24 a financially eligible person. A person who violates this subsection
25 is guilty of a crime of the third degree.

26 d. Any person who violates subsection a. of this section shall, in
27 addition to any other penalties provided by law, be liable: (1) to the
28 paying individual for the amount of any gift, money, donation, or
29 other consideration, and for interest on the amount of gift, money,
30 donation, or other consideration at the maximum legal rate in effect
31 on the date of payment; (2) to the State for payment of any
32 amount not to exceed threefold the amount of any gift, money, dona-
33 tion, or other consideration referred to in subsection a. of section 1.
34 of this act; and (3) to the State for payment in the sum of \$5,000.00
35 for each claim submitted for reimbursement for a period in which a
36 gift, money, donation, or other consideration referred to subsection
37 a. of section 1. of this act was charged, solicited, accepted, or
38 received.

39 e. Any person who violates subsections b. or c. of this section, in
40 addition to any other penalties provided by law, be liable to the
41 paying individual for the amount paid on behalf of a financially
42 eligible person plus interest at the maximum legal rate in effect on
43 the date of payment; and to the State for payment of a penalty in
44 the amount of \$5,000.00.

1 2. If an applicant is determined to be eligible under P. L. 1968,
2 c. 413 (C. 30:4D-1 et seq.) retroactively and the provider bills the
3 applicant directly for the services and benefits rendered during the
4 retroaction period, the provider shall, upon notification of the
5 applicant's retroactive eligibility, submit claims for reimbursement
6 for covered services or benefits rendered during the retroactive
7 period. Upon receipt of the payment, the provider shall reimburse
8 the applicant or other person who has made prior payment to the
9 provider.

1 3. Any paying individual under this act may bring an action in
2 the Superior Court to enforce any rights under this act.

1 4. The Division of Medical Assistance and Health Services shall
2 take all necessary action to recover the cost of benefits incorrectly
3 provided to or illegally obtained by a recipient, including those
4 made after a voluntary divestiture of real or personal property or
5 any interest or estate in property for less than adequate considera-
6 tion made for the purpose of qualifying for assistance from a
7 recipient, legally responsible relative, representative payee, or any
8 other party or parties whose action or inaction resulted in the

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9 incorrect or illegal payments, or who received the benefits of the
10 divestiture, or from their respective estates, as the case may be and
11 to assess and collect such penalties as are provided for herein,
12 except that no lien may be imposed against property of the recipi-
13 ent prior to his death except in accordance with section 17 of P. L.
14 1968, c. 413 (C. 30:4D-17); provided, however, that no recovery
15 action shall be initiated five years after an incorrect payment has
16 been made to a recipient when the incorrect payment was due solely
17 to an error on the part of the State or any agency, agent or sub-
18 division thereof.

1 5. The provisions of this act shall not prevent a person who is or
2 who would be financially eligible for benefits under P. L. 1968, c. 413
3 (C. 30:4D-1 et seq.) from voluntarily entering into a skilled nursing
4 or intermediate care facility provided that the financially eligible
5 person has been informed of the provisions of this act and has been
6 provided with a copy of this act.

1 6. There is appropriated \$595,000.00 from the General Fund to
2 the Department of Human Services. These funds are to be
3 deposited in a newly established contingency account within the
4 Division of Medical Assistance and Health Services. No funds
5 shall be expended without the submission of adequate documenta-
6 tion as to the need for these funds to effect the purpose of this act
7 and without the approval of the Director of the Division of Budget
8 and Accounting who shall consult with the Legislative Budget
9 Officer prior to authorizing expenditures.

1 7. This act shall take effect immediately and the provisions of
2 this act shall apply to all hospital, skilled nursing or intermediate
3 care facility admissions made on or after April 1, 1984.

STATEMENT

The purpose of this bill is to protect a prospective Medicaid patient or his family or both who cannot afford to pay for his nursing care in a skilled nursing facility or intermediate care facility.

The bill prohibits administrators and operators of these facilities from requiring incoming patients or their families or both from signing contracts to stay as private pay patients for a certain period of time prior to being accepted as Medicaid patients.

It also prohibits hospitals, skilled nursing facilities and intermediate care facilities from encouraging or requesting individuals or their families or both to make or accept contributions as a pre-condition of admission.

Persons who violate the provisions of this bill shall be liable:

(1) to the paying individual for the amounts of any gifts, moneys, donations, other considerations and for interest on these amounts, or for reimbursed services or benefits received during any retro-active eligibility period and (2) to the State for payment of any amount not to exceed threefold the amount of any gifts, moneys, donations or other considerations and a penalty of \$5,000.00 for each claim.

The bill also attempts to deter family members from encouraging their elderly relatives from improperly divesting their assets, and to assure that the elderly relative is not the individual who will suffer the consequences of such divestiture.

Finally, the bill appropriates \$595,000.00 to pay for any possible increase in State Medicaid costs. However, because of the uncertainty regarding the possible cost of this bill, the funds are to be deposited in a contingency account. Expenditures from this account can only be made with the approval of the Director of the Division of Budget and Accounting in consultation with the Legislative Budget Officer.

ASSEMBLY, No. 873

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1984

By Assemblymen FRANKS, GILL, GALLO, DEVERIN, LONG,
DORIA, HAYTAIAN and VISOTCKY

AN ACT to amend the "Law Against Discrimination," approved
April 16, 1945 (P. L. 1945, c. 169).

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

1 1. Section 5 of P. L. 1945, c. 169 (C. 10:5-5) is amended to read
2 as follows:

3 5. As used in this act, unless a different meaning clearly appears
4 from the context:

5 a. "Person" includes one or more individuals, partnerships,
6 associations, organizations, labor organizations, corporations, legal
7 representatives, trustees, trustees in bankruptcy, receivers, and
8 fiduciaries.

9 b. "Employment agency" includes any person undertaking to
10 procure employees or opportunities for others to work.

11 c. "Labor organization" includes any organization which exists
12 and is constituted for the purpose, in whole or in part, of collective
13 bargaining, or of dealing with employers concerning grievances,
14 terms or conditions of employment, or of other mutual aid or
15 protection in connection with employment.

16 d. "Unlawful employment practice" and "unlawful discrimina-
17 tion" includes only those unlawful practices and acts specified in
18 section 11 of this act.

19 e. "Employer" includes all persons as defined in subsection a.
20 of this section unless otherwise specifically exempt under another
21 section of this act, and includes the State, any political or civil

Matter printed in italics thus is new matter.

22 subdivision thereof, and all public officers, agencies, boards or
23 bodies.

24 f. "Employee" does not include any individual employed by his
25 parents, spouse or child, or in the domestic service of any person.

26 g. "Liability for service in the Armed Forces of the United
27 States" means subject to being ordered as an individual or member
28 of an organized unit into active service in the Armed Forces of the
29 United States by reason of membership in the National Guard,
30 naval militia or a reserve component of the Armed Forces of the
31 United States, or subject to being inducted into such armed forces
32 through a system of national selective service.

33 h. "Division" means the "Division on Civil Rights" created by
34 this act.

35 i. "Attorney General" means the Attorney General of the State
36 of New Jersey or his representative or designee.

37 j. "Commission" means the Commission on Civil Rights created
38 by this act.

39 k. "Director" means the Director of the Division on Civil
40 Rights.

41 l. "A place of public accommodation" shall include, but not be
42 limited to: any tavern, roadhouse, hotel, motel, trailer camp, sum-
43 mer camp, day camp, or resort camp, whether for entertainment
44 of transient guests or accommodation of those seeking health, rec-
45 reation or rest; any producer, manufacturer, wholesaler, distrib-
46 utor, retail shop, store, establishment, or concession dealing with
47 goods or services of any kind; any restaurant, eating house, or place
48 where food is sold for consumption on the premises; any place
49 maintained for the sale of ice cream, ice and fruit preparations or
50 their derivatives, soda water or confections, or where any beverages
51 of any kind are retailed for consumption on the premises; any
52 garage, any public conveyance operated on land or water, or in the
53 air, any stations and terminals thereof; any bathhouse, boardwalk,
54 or seashore accommodation; any auditorium, meeting place, or hall;
55 any theatre, motion-picture house, music hall, roof garden, skating
56 rink, swimming pool, amusement and recreation park, fair, bowling
57 alley, gymnasium, shooting gallery, billiard and pool parlor, or
58 other place of amusement; any comfort station; any dispensary,
59 clinic or hospital; any public library; any kindergarten, primary
60 and secondary school, trade or business school, high school, acad-
61 emy, college and university, or any educational institution under
62 the supervision of the State Board of Education, or the Commis-
63 sioner of Education of the State of New Jersey. Nothing herein

64 contained shall be construed to include or to apply to any institu-
65 tion, bona fide club, or place of accommodation, which is in its
66 nature distinctly private; nor shall anything herein contained apply
67 to any educational facility operated or maintained by a bona fide
68 religious or sectarian institution, and the right of a natural parent
69 or one in loco parentis to direct the education and upbringing of a
70 child under his control is hereby affirmed; nor shall anything herein
71 contained be construed to bar any private secondary or post-
72 secondary school from using in good faith criteria other than race,
73 creed, color, national origin or ancestry, in the admission of
74 students.

75 m. "A publicly assisted housing accommodation" shall include
76 all housing built with public funds or public assistance pursuant to
77 P. L. 1949, c. 300, P. L. 1941, c. 213, P. L. 1944, c. 169, P. L. 1949,
78 c. 303, P. L. 1938, c. 19, P. L. 1938, c. 20, P. L. 1946, c. 52, and P. L.
79 1949, c. 184, and all housing financed in whole or in part by a loan,
80 whether or not secured by a mortgage, the repayment of which is
81 guaranteed or insured by the federal government or any agency
82 thereof.

83 n. The term "real property" includes real estate, lands, tene-
84 ments and hereditaments, corporeal, and incorporeal, and lease-
85 holds, provided, however, that, except as to publicly assisted hous-
86 ing accommodations, the provisions of this act shall not apply to
87 the rental: (1) of a single apartment or flat in a two-family dwell-
88 ing, the other occupancy unit of which is occupied by the owner as
89 his residence or the household of his family at the time of such
90 rental; or (2) of a room or rooms to another person or persons by
91 the owner or occupant of a one-family dwelling occupied by him as
92 his residence or the household of his family at the time of such
93 rental. Nothing herein contained shall be construed to bar any
94 religious or denominational institution or organization, or any
95 organization operated for charitable or educational purposes,
96 which is operated, supervised or controlled by or in connection with
97 a religious organization, in the sale, lease or rental of real property,
98 from limiting admission to or giving preference to persons of the
99 same religion or denomination or from making such selection as is
100 calculated by such organization to promote the religious principles
101 for which it is established or maintained.

102 o. "Real estate broker" includes a person, firm or corporation
103 who, for a fee, commission or other valuable consideration, or by
104 reason of promise or reasonable expectation thereof, lists for sale,
105 sells, exchanges, buys or rents, or offers or attempts to negotiate a

106 sale, exchange, purchase, or rental of real estate or an interest
107 therein, or collects or offers or attempts to collect rent for the use
108 of real estate, or solicits for prospective purchasers or assists or
109 directs in the procuring of prospects or the negotiation or closing
110 of any transaction which does or is contemplated to result in the
111 sale, exchange, leasing, renting or auctioning of any real estate, or
112 negotiates, or offers or attempts or agrees to negotiate a loan
113 secured or to be secured by mortgage or other encumbrance upon
114 or transfer of any real estate for others; or any person who, for
115 pecuniary gain or expectation of pecuniary gain conducts a public
116 or private competitive sale of lands or any interest in lands. In the
117 sale of lots, the term "real estate broker" shall also include any
118 person, partnership, association or corporation employed by or on
119 behalf of the owner or owners of lots or other parcels of real estate,
120 at a stated salary, or upon a commission, or upon a salary and com-
121 mission or otherwise, to sell such real estate, or any parts thereof,
122 in lots or other parcels, and who shall sell or exchange, or offer or
123 attempt or agree to negotiate the sale or exchange, of any such lot
124 or parcel of real estate.

125 p. "Real estate salesman" includes any person who, for compen-
126 sation, valuable consideration or commission, or other thing of
127 value, or by reason of a promise or reasonable expectation thereof,
128 is employed by and operates under the supervision of a licensed real
129 estate broker to sell or offer to sell, buy or offer to buy or negotiate
130 the purchase, sale or exchange of real estate, or offers or attempts
131 to negotiate a loan secured or to be secured by a mortgage or other
132 encumbrance upon or transfer of real estate, or to lease or rent, or
133 offer to lease or rent any real estate for others, or to collect rents
134 for the use of real estate, or to solicit for prospective purchasers
135 or lessees of real estate, or who is employed by a licensed real
136 estate broker to sell or offer to sell lots or other parcels of real
137 estate, at a stated salary, or upon a commission, or upon a salary
138 and commission, or otherwise to sell real estate, or any parts
139 thereof, in lots or other parcels.

140 q. "Handicapped" means suffering from physical disability,
141 infirmity, malformation or disfigurement which is caused by bodily
142 injury, birth defect or illness including epilepsy, and which shall
143 include, but not be limited to, any degree of paralysis, amputation,
144 lack of physical coordination, blindness or visual impediment, deaf-
145 ness or hearing impediment, muteness or speech impediment
146 or physical reliance on a guide dog, wheelchair, or other remedial
147 appliance or device, or from any mental, psychological or develop-

148 mental disability resulting from anatomical, psychological, phys-
149 iological or neurological conditions which prevents the normal
150 exercise of any bodily or mental functions or is demonstrable,
151 medically or psychologically, by accepted clinical or laboratory
152 diagnostic techniques.

153 r. "Blind person" means any individual whose central visual
154 acuity does not exceed 20/200 in the better eye with correcting lens
155 or whose visual acuity is better than 20/200 if accompanied by a
156 limit to the field of vision in the better eye to such a degree that its
157 widest diameter subtends an angle of no greater than 20 degrees.

158 s. "Guide dog" means a dog used to assist deaf persons or
159 which fitted with a special harness so as to be suitable as an aid to
160 the mobility of a blind person, and is used by a blind person who has
161 satisfactorily completed a specific course of training in the use of
162 such a dog, and has been trained by an organization generally
163 recognized by agencies involved in the rehabilitation of the blind
164 or deaf as reputable and competent to provide dogs with training
165 of this type.

166 t. "Guide dog trainer" means any person who is employed by an
167 organization generally recognized by agencies involved in the
168 rehabilitation of the blind or deaf as reputable and competent to
169 provide dogs with training, and who is actually involved in the
170 training process.

171 u. "Housing accommodation" means any publicly assisted hous-
172 ing accommodation or any real property, or portion thereof, which
173 is used or occupied, or is intended, arranged, or designed to be used
174 or occupied, as the home, residence or sleeping place of one or more
175 persons, but shall not include any single family residence the
176 occupants of which rent, lease, or furnish for compensation not
177 more than one room therein.

178 v. "Public facility" means any place of public accommodation
179 and any street, highway, sidewalk, walkway, public building, and
180 any other place or structure to which the general public is regularly,
181 normally or customarily permitted or invited.

182 w. "Deaf person" means any person whose hearing is so
183 severely impaired that he is unable to hear and understand nor-
184 mal conversational speech through the unaided ear alone, and who
185 must depend primarily on supportive device or visual communica-
186 tion such as writing, lip reading, sign language, and gestures.

187 x. "Atypical hereditary cellular or blood trait" means sickle
188 cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait,
189 or cystic fibrosis trait.

190 y. "Sickle cell trait" means the condition wherein the major
 191 natural hemoglobin components present in the blood of the indi-
 192 vidual are hemoglobin A (normal) and hemoglobin S (sickle hemo-
 193 globin) as defined by standard chemical and physical analytic tech-
 194 niques, including electrophoresis; and the proportion of hemoglobin
 195 A is greater than the proportion of hemoglobin S or one natural
 196 parent of the individual is shown to have only normal hemoglobin
 197 components (hemoglobin A, hemoglobin A2, hemoglobin F) in the
 198 normal proportions by standard chemical and physical analytic
 199 tests.

200 z. "Hemoglobin C trait" means the condition wherein the major
 201 natural hemoglobin components present in the blood of the indi-
 202 vidual are hemoglobin A (normal) and hemoglobin C as defined
 203 by standard chemical and physical analytic techniques, including
 204 electrophoresis; and the proportion of hemoglobin A is greater than
 205 the proportion of hemoglobin C or one natural parent of the indi-
 206 vidual is shown to have only normal hemoglobin components
 207 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal propor-
 208 tions by standard chemical and physical analytic tests.

209 aa. "Thalassemia trait" means the presence of the thalassemia
 210 gene which in combination with another similar gene results in the
 211 chronic hereditary disease Cooley's anemia.

212 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs
 213 gene which in combination with another similar gene results in the
 214 chronic hereditary disease Tay-Sachs.

215 cc. "Cystic fibrosis trait" means the presence of the cystic
 216 fibrosis gene which in combination with another similar gene re-
 217 sults in the chronic hereditary disease cystic fibrosis.

218 dd. "*Medicaid eligible recipient*" means an individual who is
 219 qualified to receive skilled nursing or intermediate care facility
 220 services which are reimbursable by the Medicaid program P. L.
 221 1968, c. 413 (C. 30:4D-1 et seq.).

1 2. Section 11 of P. L. 1945, c. 169 (C. 10:5-12) is amended to
 2 read as follows:

3 11. It shall be unlawful employment practice, or, as the case may
 4 be, an unlawful discrimination:

5 a. For an employer, because of the race, creed, color, national
 6 origin, ancestry, age, marital status, sex or atypical hereditary
 7 cellular or blood trait of any individual, or because of the liability
 8 for service in the Armed Forces of the United States or the
 9 nationality of any individual, to refuse to hire or employ or to
 10 bar or to discharge from employment such individual or to dis-
 11 criminate against such individual in compensation or in terms,

12 conditions or privileges of employment; provided, however, it
13 shall not be an unlawful employment practice to refuse to accept
14 for employment an applicant who has received a notice of induc-
15 tion or orders to report for active duty in the armed forces; pro-
16 vided further that nothing herein contained shall be construed to
17 bar an employer from refusing to accept for employment any
18 person on the basis of sex in those certain circumstances where sex
19 is a bona fide occupational qualification, reasonably necessary to the
20 normal operation of the particular business or enterprise; provided
21 further that it shall not be an unlawful employment practice for a
22 club exclusively social or fraternal to use club membership as a
23 uniform qualification for employment, or for a religious association
24 or organization to utilize religious affiliation as a uniform qualifica-
25 tion in the employment of clergy, religious teachers or other em-
26 ployees engaged in the religious activities of the association or
27 organizations, or in following the tenets of its religion in establish-
28 ing and utilizing criteria for employment of an employee; and
29 provided further that an employer may restrict employment to
30 citizens of the United States where such restriction is required
31 by federal law or is otherwise necessary to protect the national
32 interest.

33 b. For a labor organization, because of the race, creed, color,
34 national origin, ancestry, age, marital status or sex of any
35 individual, or because of the liability for service in the Armed
36 Forces of the United States or nationality of any individual,
37 to exclude or to expel from its membership such individual or to
38 discriminate in any way against any of its members, against any
39 applicant for, or individual included in, any apprentice or other
40 training program or against any employer or any individual em-
41 ployed by an employer; provided, however, that nothing herein
42 contained shall be construed to bar a labor organization from
43 excluding from its apprentice or other training programs any
44 person on the basis of sex in those certain circumstances where sex
45 is a bona fide occupational qualification reasonably necessary
46 to the normal operation of the particular apprentice or other
47 training program.

48 c. For any employer or employment agency to print or circulate
49 or cause to be printed or circulated any statement, advertisement
50 or publication, or to use any form of application for employment,
51 or to make an inquiry in connection with prospective employment,
52 which expresses, directly or indirectly, any limitation, specification
53 or discrimination as to race, creed, color, national origin, ancestry,

54 age, marital status or sex or liability of any applicant for employ-
55 ment for service in the Armed Forces of the United States, or
56 any intent to make any such limitation, specification or discrim-
57 ination, unless based upon a bona fide occupational qualification.

58 d. For any person to take reprisals against any person because
59 he has opposed any practices or acts forbidden under this act or
60 because he has filed a complaint, testified or assisted in any pro-
61 ceeding under this act.

62 e. For any person, whether an employer or an employee or not,
63 to aid, abet, incite, compel or coerce the doing of any of the acts
64 forbidden under this act, or to attempt to do so.

65 f. For any owner, lessee, proprietor, manager, superintendent,
66 agent, or employee of any place of public accommodation directly
67 or indirectly to refuse, withhold from or deny to any person any
68 of the accommodations, advantages, facilities or privileges thereof,
69 or to discriminate against any person in the furnishing thereof,
70 or directly or indirectly to publish, circulate, issue, display, post or
71 mail any written or printed communication, notice, or advertise-
72 ment to the effect that any of the accommodations, advantages,
73 facilities, or privileges of any such place will be refused, withheld
74 from, or denied to any person on account of the race, creed, color,
75 national origin, ancestry, marital status, sex or nationality
76 of such person, or that the patronage or custom thereat of any
77 person of any particular race, creed, color, national origin, ancestry,
78 marital status, sex or nationality is unwelcome, objectionable or
79 not acceptable, desired or solicited, and the production of any
80 such written or printed communication, notice or advertisement,
81 purporting to relate to any such place and to be made by any
82 owner, lessee, proprietor, superintendent or manager thereof, shall
83 be presumptive evidence in any action that the same was authorized
84 by such person; provided, however, that nothing contained herein
85 shall be construed to bar any place of public accommodation which
86 is in its nature reasonably restricted exclusively to individuals
87 of one sex, and which shall include but not be limited to any summer
88 camp, day camp, or resort camp, bathhouse, dressing room, swim-
89 ming pool, gymnasium, comfort station, dispensary, clinic or
90 hospital, or school or educational institution which is restricted
91 exclusively to individuals of one sex, from refusing, withholding
92 from or denying to any individual of the opposite sex any of the
93 accommodations, advantages, facilities or privileges thereof on the
94 basis of sex; provided further, that the foregoing limitation shall
95 not apply to any restaurant as defined in R. S. 33:1-1 or place
96 where alcoholic beverages are served.

97 g. For the owner, lessee, sublessee, assignee or managing agent
98 of, or other person having the right of ownership or possession of
99 or the right to sell, rent, lease, assign, or sublease any real property
100 or part or portion thereof, or any agent or employee of any of these:

101 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
102 to deny to or withhold from any person or group of persons any
103 real property or part or portion thereof because of the race, creed,
104 color, national origin, ancestry, marital status, sex or nationality
105 of such person or group of persons;

106 (2) To discriminate against any person or group of persons be-
107 cause of the race, creed, color, national origin, marital status
108 or sex of such person or group of persons in the terms, conditions
109 or privileges of the sale, rental or lease of any real property or part
110 or portion thereof or in the furnishing of facilities or services in
111 connection therewith; or

112 (3) To print, publish, circulate, issue, display, post or mail, or
113 cause to be printed, published, circulated, issued, displayed, posted
114 or mailed any statement, advertisement, publication or sign, or to
115 use any form of application for the purchase, rental, lease, assign-
116 ment or sublease of any real property or part or portion thereof,
117 or to make any record or inquiry in connection with the prospective
118 purchase, rental, lease, assignment, or sublease of any real prop-
119 erty, or part or portion thereof which expresses, directly or in-
120 directly, any limitation, specification or discrimination as to race,
121 creed, color, national origin, ancestry, marital status, sex or
122 nationality or any intent to make any such limitation, specification
123 or discrimination, and the production of any such statement, ad-
124 vertisement, publicity, sign, form of application, record, or inquiry
125 purporting to be made by any such person shall be presumptive
126 evidence in any action that the same was authorized by such person;
127 provided, however, that nothing contained in this subsection shall
128 be construed to bar any person from refusing to sell, rent, lease,
129 assign or sublease or from advertising or recording a qualification
130 as to sex for any room, apartment, flat in a dwelling or residential
131 facility which is planned exclusively for and occupied by individuals
132 of one sex to any individual of the exclusively opposite sex on the
133 basis of sex.

134 h. For any real estate broker, real estate salesman or employee
135 or agent thereof:

136 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
137 sale, rental, lease, assignment, or sublease any real property or part
138 or portion thereof to any person or group of persons or to refuse

139 to negotiate for the sale, rental, lease, assignment, or sublease of
140 any real property or part or portion thereof to any person or group
141 of persons because of the race, creed, color, national origin, an-
142 cestry, marital status, sex or nationality of such person or group
143 of persons, or to represent that any real property or portion thereof
144 is not available for inspection, sale, rental, lease, assignment, or
145 sublease when in fact it is so available, or otherwise to deny or with-
146 hold any real property or any part or portion of facilities thereof
147 to or from any person or group of persons because of the race,
148 creed, color, national origin, ancestry, marital status, sex or
149 nationality of such person or group of persons;

150 (2) To discriminate against any person because of his race, creed,
151 color, national origin, ancestry, marital status or sex in the terms,
152 conditions or privileges of the sale, rental, lease, assignment or
153 sublease of any real property or part or portion thereof or in the
154 furnishing of facilities or services in connection therewith; or

155 (3) To print, publish, circulate, issue, display, post, or mail, or
156 cause to be printed, published, circulated, issued, displayed, posted
157 or mailed any statement, advertisement, publication or assign, or
158 to use any form of application for the purchase, rental, lease,
159 assignment, or sublease of any real property or part or portion
160 thereof or to make any record or inquiry in connection with the pro-
161 spective purchase, rental, lease, assignment, or sublease of any real
162 property or part or portion thereof which expresses, directly or
163 indirectly, any limitation, specification or discrimination as to
164 race, creed, color, national origin, ancestry, marital status, sex
165 or nationality or any intent to make any such limitation, specifi-
166 cation or discrimination, and the production of any such statement,
167 advertisement, publicity, sign, form of application, record, or
168 inquiry purporting to be made by any such person shall be pre-
169 sumptive evidence in any action that the same was authorized by
170 such person; provided, however, that nothing contained in this
171 subsection h., shall be construed to bar any person from refusing
172 to sell, rent, lease, assign or sublease or from advertising or
173 recording a qualification as to sex for any room, apartment, flat
174 in a dwelling or residential facility which is planned exclusively
175 for and occupied exclusively by individuals of one sex to any in-
176 dividual of the opposite sex on the basis of sex.

177 i. For any person, bank, banking organization, mortgage com-
178 pany, insurance company or other financial institution, lender or
179 credit institution to whom application is made for any loan or
180 extension of credit including but not limited to an application for

181 financial assistance for the purchase, acquisition, construction,
182 rehabilitation, repair or maintenance of any real property or part
183 or portion thereof or any agent or employee thereof:

184 (1) To discriminate against any person or group of persons
185 because of the race, creed, color, national origin, ancestry, marital
186 status, sex or nationality of such person or group of persons or
187 of the prospective occupants or tenants of such real property
188 or part or portion thereof, in the granting, withholding, extending,
189 modifying or renewing, or in the fixing of the rates, terms, con-
190 ditions or provisions of any such loan, extension of credit or
191 financial assistance or in the extension of services in connection
192 therewith; or

193 (2) To use any form of application for such loan, extension
194 of credit or financial assistance or to make record or inquiry
195 in connection with applications for any such loan, extension of
196 credit or financial assistance which expresses, directly or indirectly,
197 any limitation, specification or discrimination as to race, creed,
198 color, national origin, ancestry, marital status, sex or nationality
199 or any intent to make any such limitation, specification or discrim-
200 ination; unless otherwise required by law or regulation to retain
201 or use such information.

202 j. For any person whose activities are included within the scope
203 of this act to refuse to post or display such notices concerning the
204 rights or responsibilities of persons affected by this act as the
205 Attorney General may by regulation require.

206 k. For any real estate broker, real estate salesman or em-
207 ployee or agent thereof or any other individual, corporation, part-
208 nership, or organization, for the purpose of inducing a transaction
209 for the sale or rental of real property from which transaction such
210 person or any of its members may benefit financially, to represent
211 that a change has occurred or will or may occur in the composition
212 with respect to race, creed, color, national origin, ancestry, marital
213 status, sex or nationality of the owners or occupants in the block,
214 neighborhood or area in which the real property is located,
215 and to represent, directly or indirectly, that this change will or
216 may result in undesirable consequences in the block, neighborhood
217 or area in which the real property is located, including, but not
218 limited to the lowering of property values, an increase in criminal
219 or anti-social behavior, or a decline in the quality of schools or
220 other facilities.

221 l. For any person to refuse to buy from, sell to, lease from or to,
222 license, contract with, or trade with, provide goods, services or

223 information to, or otherwise do business with any other person on
224 the basis of the race, creed, color, national origin, ancestry, age,
225 sex, marital status, liability for service in the Armed Forces of the
226 United States, or nationality of such other person or of such other
227 person's spouse, partners, members, stockholders, directors,
228 officers, managers, superintendents, agents, employees, business
229 associates, suppliers, or customers. This subsection shall not pro-
230 hibit refusals or other actions (1) pertaining to employee-employer
231 collective bargaining, labor disputes, or unfair labor practices, or
232 (2) made or taken in connection with a protest of unlawful discrim-
233 ination or unlawful employment practices.

234 m. For any person to:

235 (1) Grant or accept any letter of credit or other document which
236 evidences the transfer of funds or credit, or enter into any con-
237 tract for the exchange of goods or services, where the letter of
238 credit, contract, or other document contains any provisions requir-
239 ing any person to discriminate against or to certify that he, she or
240 it has not dealt with any other person on the basis of the race, creed,
241 color, national origin, ancestry, age, sex, marital status, liability for
242 service in the Armed Forces of the United States, or nationality
243 of such other person or of such other person's spouse, partners,
244 members, stockholders, directors, officers, managers, superin-
245 tendents, agents, employees, business associates, suppliers, or
246 customers.

247 (2) Refuse to grant or accept any letter of credit or other docu-
248 ment which evidences the transfer of funds or credit, or refuse to
249 enter into any contract for the exchange of goods or services, on the
250 ground that it does not contain such a discriminatory provision
251 or certification.

252 The provisions of this subsection shall not apply to any letter of
253 credit, contract, or other document which contains any provision
254 pertaining to employee-employer collective bargaining, a labor
255 dispute or an unfair labor practice, or made in connection with the
256 protest of unlawful discrimination or an unlawful employment
257 practice, if the other provisions of such letter of credit, contract,
258 or other document do not otherwise violate the provisions of this
259 subsection.

260 n. For any person to aid, abet, incite, compel, coerce, or induce
261 the doing of any act forbidden by subsections 11 l. and m. of
262 this act, or to attempt, or to conspire to do so. Such prohibited
263 conduct shall include, but not be limited to:

264 (1) Buying from, selling to, leasing from or to, licensing, con-
265 tracting with, trading with, providing goods, services, or informa-

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266 tion to, or otherwise doing business with any person because that
267 person does, or agrees or attempts to do, any such act or any act
268 prohibited by this subsection n.; or
269 (2) Boycotting, commercially blacklisting or refusing to buy
270 from, sell to, lease from or to, license, contract with, provide goods,
271 services or information to, or otherwise do business with any person
272 because that person has not done or refuses to do any such act or
273 any act prohibited by this subsection n.; provided, that, this sub-
274 section n. shall not prohibit refusals or other actions either pertain-
275 ing to employee-employer collective bargaining, labor disputes, or
276 unfair labor practices, or made or taken in connection with a pro-
277 test of unlawful discrimination or unlawful employment practices.
278 o. *For any skilled nursing or intermediate care facility whose*
279 *annual average Medicaid occupancy level is less than the Statewide*
280 *annual average occupancy level as determined by the Commissioner*
281 *of Human Services the skilled nursing or intermediate care facility*
282 *shall not deny admission to a qualified Medicaid eligible recipient*
283 *when a nursing home bed becomes available. The commissioner may*
284 *modify this requirement based on the skilled nursing or inter-*
285 *mediate care facilities licensed bed capacity and the financial con-*
286 *dition of the facility. The criteria used by the commissioner to*
287 *modify this requirement shall be contained in regulations which he*
288 *shall adopt subject to the "Administrative Procedure Act," P. L.*
289 *1968, c. 410 (C. 52:14B-1 et seq.), and a list of all skilled nursing*
290 *or intermediate care facilities granted a modification by the com-*
291 *missioner shall be published in the New Jersey Register.*
1 3. This act shall take effect immediately.

STATEMENT

This bill would prohibit nursing homes from denying admission to Medicaid recipients if that nursing home has a Medicaid occupancy rate below the Statewide average. However, the Commissioner of Human Services may make individual exceptions to this provision based on the licensed bed capacity of a nursing home or the financial condition of a nursing home.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

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Release: SUNDAY, AUGUST 25, 1985

Governor Thomas H. Kean yesterday signed legislation prohibiting the use of so-called private pay contracts as a pre-condition for admittance to a nursing home by a Medicaid recipient.

Kean termed the practice of private pay contracts "clearly discriminatory and one which victimizes the most vulnerable group of senior citizens."

The legislation, A-1829, was sponsored by Assemblyman George Otlowski, D-Middlesex.

The bill, effective in 90 days, bars a private nursing home operator from requiring a prospective client to sign a private payment contract in order to assure availability of a bed.

"These contracts have had a devastating effect on Medicaid patients and their families who cannot afford to pay for nursing care, yet who are in desperate need of skilled care," the Governor said. "It is an insidious practice which causes grief, heartache and needless worry and concern to many of our elderly citizens."

The legislation also provides for an appropriation of \$13 million to cover the cost of possible increases in Medicaid benefits as a result of the abolition of the private pay contracts.

-more-

A-1829 SIGNED
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The Governor pointed out that, between 1980 and 1983, there was a 3.2 percent decrease in Medicaid's share of long term care beds, the equivalent of the loss of 1,061 beds for Medicaid patients.

"This loss has been attributed primarily to the imposition of private pay contracts on prospective clients," Kean said. "In addition, it has been estimated that some 1,800 beds are under private pay contracts, yet the clients are eligible for Medicaid. This bill will eliminate the need for the patients to absorb the cost of a private pay contract to assure the availability of a bed."

Anyone who violates the law would be required to reimburse the client for any monies received, and would be subject to treble damages payable to the State, as well as a \$5,000 fine.

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