

# 30:11A-1 to 30:11A-3 et al.

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2017                    **CHAPTER:** 234

**NJSA:** 30:11A-1 to 30:11A-3 et al. (Clarifies DCA rulemaking authority over free-standing residential health care facilities, and prohibits eviction of residents from such facilities, except for good cause.)

**BILL NO:** S2563                    (Substituted for A4163)

**SPONSOR(S)** Weinberg and others

**DATE INTRODUCED:** 9/26/2016

**COMMITTEE:**                    **ASSEMBLY:** ---

**SENATE:** Health, Human Services and Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** 7/31/2017

**SENATE:** 6/22/2017

**DATE OF APPROVAL:** 9/13/2017

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Second Reprint enacted) Yes

#### S2563

**SPONSOR'S STATEMENT:** (Begins on page 7 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL ESTIMATE:** No

#### A4163

**SPONSOR'S STATEMENT:** (Begins on page 7 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** Yes 6/22/2017

7/31/2017

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RH/CL

P.L.2017, CHAPTER 234, *approved September 13, 2017*

Senate, No. 2563 (*Second Reprint*)

1 AN ACT concerning free-standing residential health care facilities,  
2 and amending P.L.1953, c.212.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1953, c.212 (C.30:11A-1) is amended to  
8 read as follows:

9 1. **【For purposes of】** As used in <sup>2</sup>**【this act】** P.L.1953, c.212  
10 (C.30:11A-1 et seq.)<sup>2</sup> **【, a residential】** :

11 “Department” means the Department of Health or the  
12 Department of Community Affairs, as appropriate.

13 “Licensee” means the owner, operator, or administrator of a  
14 residential health care facility that is certified to operate pursuant to  
15 this chapter.

16 “Residential health care **【facility is defined as】** facility” means  
17 any facility, whether in single or multiple dwellings, whether public  
18 or private, whether incorporated or unincorporated, whether for  
19 profit or nonprofit, which <sup>2</sup>:

20 (1)<sup>2</sup> is operated at the direction **【of】** , or under the management,  
21 of an individual or individuals, a corporation, a partnership, a  
22 society, or an association **【,】** :

23 <sup>2</sup>**【which】** (2)<sup>2</sup> furnishes food and shelter to four or more persons  
24 18 years of age or older who are unrelated to the proprietor **【, and】**  
25 :

26 <sup>2</sup>**【which】** (3)<sup>2</sup> provides any one or more of such persons with  
27 dietary services, recreational activities, supervision of self-  
28 administration of medications, supervision of and assistance in  
29 activities of daily living, and assistance in obtaining health services  
30 **【to any one or more of such persons, excluding, however,】** ; and

31 <sup>2</sup>**【which】** (4)<sup>2</sup> is regulated by either the Department of Health or  
32 the Department of Community Affairs.

33 “Residential health care facility” shall not include any  
34 community residence for the developmentally disabled, as defined  
35 in section 2 of P.L.1977, c.448 (C.30:11B-2) **【,】** ; any facility or  
36 living arrangement that is operated by, or under contract with, any  
37 other State department or agency, upon the written authorization of  
38 the Commissioner of **【the Department of】** Health **【, and】** or the  
39 Commissioner of Community Affairs, as appropriate; or any

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted May 1, 2017.

<sup>2</sup>Senate floor amendments adopted June 19, 2017.

1 privately operated establishment licensed under chapter 11 of Title  
2 30 of the Revised Statutes.

3 **[A "resident" of a residential health care facility is defined as]**  
4 **“Resident” means** a person 18 years of age or older who <sup>2</sup>;

5 (1)<sup>2</sup> is ambulant, with or without assistive devices ;

6 <sup>2</sup>**[who]** (2)<sup>2</sup> has been certified by a licensed physician to be free  
7 from communicable disease and not in need of skilled nursing care  
8 **[,]** ; and

9 <sup>2</sup>**[who,]** (3)<sup>2</sup> except in the case of a person 65 years of age and  
10 over, is in need of dietary services, supervision of self-  
11 administration of medications, supervision of and assistance in  
12 activities of daily living, or assistance in obtaining health care  
13 services **[, but]** .

14 A resident shall not be given skilled nursing care while a  
15 resident, except as hereinafter provided. The foregoing definition  
16 shall not be construed to prevent care of residents in emergencies or  
17 during temporary illness for a period of **[1]** one week or less, and  
18 shall not be construed to prevent a licensed physician from ordering  
19 nursing or other health care services.

20 (cf: P.L.1979, c.496, s.26)

21

22 2. Section 2 of P.L.1953, c.212 (C.30:11A-2) is amended to  
23 read as follows:

24 2. Residential health care facilities, as defined in section 1 <sup>2</sup>of  
25 P.L.1953, c.212 (C.30:11A-1 et seq.)<sup>2</sup>, shall operate within this  
26 State pursuant to <sup>1</sup>a<sup>1</sup> certificate of approval first had and obtained  
27 for that purpose from the Department of Health <sup>1</sup>,<sup>1</sup> or <sup>1</sup>pursuant to a  
28 license had and obtained from<sup>1</sup> the Department of Community  
29 Affairs <sup>2</sup>**[, as appropriate]**<sup>2</sup>. No such certificate of approval <sup>1</sup>or  
30 license<sup>1</sup> shall be issued unless the commissioner **[shall be]** is  
31 satisfied that the institution in question is adequately prepared to  
32 furnish facilities, care, and service complying with standards **[,]**  
33 relating thereto, except that temporary permits, valid for a period  
34 not exceeding **[6]** six months and not subject to renewal, may be  
35 issued under the circumstances specified in section 6 of <sup>2</sup>**[this act]**  
36 P.L.1953, c.212 (C.30:11A-6)<sup>2</sup>. Boarding and rooming houses shall  
37 not be construed to be within the provisions of <sup>2</sup>**[this act]** P.L.1953,  
38 c.212 (C.30:11A-1 et seq.)<sup>2</sup>.

39 (cf: P.L.1979, c.496, s.27)

40

41 3. Section 3 of P.L.1953, c. 212 (C.30:11A-3) is amended to  
42 read as follows:

43 3. a. The **[State]** Department of Health and the Department of  
44 Community Affairs <sup>2</sup>**[,]**<sup>2</sup> shall each adopt, promulgate, and enforce  
45 such rules, regulations, and standards with respect to the residential  
46 health care facilities **[to be]** that are approved hereunder , and that

1 fall under each department's jurisdiction, as [it] each such  
2 department may deem to be necessary to assure that: persons living  
3 in such facilities are afforded the opportunity to live with as much  
4 independence, autonomy, and interaction with the surrounding  
5 community as they are capable of; such persons are afforded a  
6 minimum [standards] standard of sanitation, housekeeping, heat,  
7 light, air, food, lodging, care, service, and fire safety which also  
8 [preserve] preserves and [promote] promotes a homelike  
9 atmosphere appropriate to such facilities; such persons are not  
10 deprived of any constitutional, civil, or legal right solely by reason  
11 of their living in such facilities; [and that] employees of public and  
12 private agencies have reasonable access to such facilities ; and other  
13 citizens have reasonable access to such facilities upon receiving the  
14 consent of [the] a resident to be visited by them[; but nothing] .

15 b. Nothing in this chapter [nor] , or in any rule or regulation  
16 promulgated hereunder, shall be construed to mean that any  
17 residential health care facility may advertise, hold itself out, or  
18 operate, as a nursing home. [The]

19 c. Each department may determine that the various  
20 establishments covered by <sup>2</sup>[this act] P.L.1953, c.212 (C.30:11A-1  
21 et seq.)<sup>2</sup> , which are subject to each department's respective  
22 jurisdiction, are appropriately and reasonably classified into two or  
23 more classes, and may establish separate rules, regulations, and  
24 standards for each such class. Such rules, regulations, and  
25 standards shall [in any event] include, but need not be limited to,  
26 all requirements and limitations legally imposed upon any such  
27 establishment by any other municipal, county, or State office or  
28 officer having inspection, approval, licensing, or regulatory  
29 authority with respect to such establishment.

30 d. The provisions of this subsection shall apply only to those  
31 free-standing residential health care facilities that are not located  
32 with, and operated by, a licensed health care facility, and which are  
33 subject to the authority of the Department of Community Affairs.

34 (1) <sup>1</sup>[Unless otherwise directed or authorized by the Department  
35 of Community Affairs, no] No<sup>1</sup> licensee shall cause any resident to  
36 be evicted from a residential health care facility that is not located  
37 with, and operated by, a licensed health care facility, except for  
38 good cause, as defined in <sup>2</sup>[N.J.S.A.2A:18-61.1 et seq.] P.L.1974,  
39 c.49 (C.2A:18-61.1 et seq.)<sup>2</sup> , and except in accordance with the  
40 procedural requirements of <sup>2</sup>[N.J.S.A.2A:18-61.1 et seq] P.L.1974,  
41 c.49 (C.2A:18-61.1 et seq.)<sup>2</sup>. <sup>1</sup>Nothing in <sup>2</sup>[this act] P.L.1953,  
42 c.212 (C.30:11A-1 et seq.)<sup>2</sup> shall prohibit the transfer of a resident  
43 to a screening center for <sup>2</sup>an<sup>2</sup> evaluation <sup>2</sup>[of] to determine<sup>2</sup>  
44 whether the resident poses a risk of danger to <sup>2</sup>[himself] the  
45 resident's own self<sup>2</sup> or <sup>2</sup>to<sup>2</sup> others. In <sup>2</sup>[this event] the event of  
46 such transfer<sup>2</sup>, the licensee may contemporaneously proceed with

1 eviction against such resident pursuant to <sup>2</sup> [N.J.S.A.2A:18-61.1 et  
2 seq] P.L.1974, c.49 (C.2A:18-61.1 et seq.)<sup>2,1</sup> All references in  
3 <sup>2</sup> [N.J.S.A.2A:18-61.1 et seq.] P.L.1974, c.49 (C.2A:18-61.1 et  
4 seq.)<sup>2</sup> to the terms <sup>2</sup>“landlords,”<sup>2</sup> “tenants,” “tenancy,” “lease,” or  
5 similar terminology shall be equally applicable to residents of <sup>2</sup>and  
6 residential agreements used by<sup>2</sup> a residential health care facility that  
7 is not located with, and operated by, a licensed health care facility.

8 (2) <sup>1</sup> [A licensee may bring to the attention of the Department of  
9 Community Affairs any situation in which the licensee believes that  
10 a directive from the department, pursuant to this subsection, is  
11 necessary to facilitate the appropriate placement of a resident, and  
12 to protect the right of all residents to a safe, healthful, and decent  
13 living environment.

14 (3) <sup>1</sup> In addition to the other requirements of this subsection, a  
15 licensee shall provide prompt written notice to the county welfare  
16 agency <sup>1</sup>, to the Department of Community Affairs,<sup>1</sup> and to the New  
17 Jersey Office of the Ombudsman for the Institutionalized Elderly of  
18 any proposed eviction of a resident. The written notice required by  
19 this paragraph shall be provided at the time that a complaint for  
20 eviction is filed with the appropriate court <sup>1</sup>, unless the licensee is  
21 seeking a directive from the Department of Community Affairs for  
22 the appropriate placement of a resident pursuant to paragraph (2) of  
23 this subsection, in which case, the written notice required under this  
24 paragraph shall be provided contemporaneously with the initial  
25 communication to the Department of Community Affairs.

26 (4) In accordance with the “Administrative Procedure Act,”  
27 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of  
28 Community Affairs shall adopt, promulgate, and enforce rules and  
29 regulations as may be necessary to implement the provisions of this  
30 subsection]<sup>1</sup> <sup>2</sup>and appended thereto. No Judgment of Possession  
31 shall be entered unless the requirements of this paragraph have been  
32 met<sup>2</sup>.

33 (cf: P.L.1979, c.496, s.28)

34

35 4. Section 10 of P.L.1953, c.212 (C.30:11A-10) is amended to  
36 read as follows:

37 10. **[(a)]** a. Any person, firm, corporation, partnership, society,  
38 or association who shall operate or conduct a residential health care  
39 facility without first obtaining the certificate of approval <sup>1</sup>or  
40 license<sup>1</sup> required by <sup>2</sup> [this act] P.L.1953, c.212 (C.30:11A-1 et  
41 seq.)<sup>2</sup>, or who shall operate such establishment after revocation or  
42 suspension of a certificate of approval <sup>1</sup>or license<sup>1</sup>, shall be liable to  
43 a penalty of \$10.00 for each day of operation in violation hereof for  
44 the first offense, and for any subsequent offense shall be liable to a  
45 penalty of \$20.00 for each day of operation in violation hereof.

46 The penalties authorized by this section shall be recovered in a  
47 summary proceeding, brought in the name of the State of New

1 Jersey pursuant to the "Penalty Enforcement Law of 1999,"  
2 P.L.1999, c.74 (C.2A:58-10 et seq.). Money penalties, when  
3 recovered, shall be payable to the General State Fund.

4 The <sup>2</sup>**department** Department of Health or the Department of  
5 Community Affairs, as appropriate,<sup>2</sup> may, in the manner provided  
6 by law, maintain an action in the name of the State of New Jersey  
7 for injunctive relief against any person, firm, corporation,  
8 partnership, society, or association **[, continuing]** that continues to  
9 conduct, manage, or operate a residential health care facility  
10 without a certificate of approval <sup>1</sup>or license<sup>1</sup>, or after suspension or  
11 revocation of such certificate <sup>2</sup>of approval<sup>2</sup> <sup>1</sup>or license<sup>1</sup>.

12 The practice and procedure in actions instituted under authority  
13 of this section shall conform to the practice and procedure in the  
14 court in which the action is instituted.

15 No officer or agent of any municipal or county agency having  
16 responsibility for making payments of any form of public assistance  
17 under the provisions of Title 44 of the Revised Statutes, shall make  
18 such payments to or on behalf of a person residing in a residential  
19 health care facility as defined in <sup>2</sup>**[this act]** P.L.1953, c.212  
20 (C.30:11A-1 et seq.)<sup>2</sup>, unless such establishment is, at the time of  
21 such payment, approved or provisionally approved pursuant to  
22 <sup>2</sup>**[this act]** P.L.1953, c.212 (C.30:11A-1 et seq.)<sup>2</sup>.

23 **[(b)] b.** No residential health care facility, licensed hereunder,  
24 shall by public or private advertisement or by any other means hold  
25 out to the public that it is equipped to provide post-operative or  
26 convalescent care for persons with a mental illness or an intellectual  
27 disability or who are suffering or recovering from illness or injury  
28 or who are critically ill. Any person, firm, association, partnership,  
29 society, or corporation who violates the provisions of this  
30 subsection shall cease and desist from such practices and shall be  
31 liable to a penalty of \$100.00 for the first <sup>2</sup>offense<sup>2</sup> and \$200.00 for  
32 each subsequent offense, **[such]** which penalties shall be recovered  
33 in the manner provided for in subsection **[(a)] a.** of this section.

34 **[(c)] c.** No residential health care facility licensed hereunder,  
35 shall operate as a private mental hospital, convalescent home,  
36 private nursing home, or private hospital, unless it is licensed  
37 pursuant to chapter 11 of Title 30 of the Revised Statutes.  
38 Whenever there is reason to believe that any such facility or  
39 institution is in violation of the provisions of this subsection, the  
40 <sup>2</sup>**department** Department of Health or the Department of  
41 Community Affairs, as appropriate,<sup>2</sup> may conduct a reasonable  
42 inspection of the premises for the purpose of ascertaining whether  
43 there is any violation. Any facility or institution which violates the  
44 provisions of this subsection shall be liable to a penalty of \$25.00  
45 for each day of operation in violation of this subsection for the first  
46 offense and to a penalty of \$50.00 for each day of operation for any  
47 subsequent offense. **[The Department of Health and Senior**

1 Services] <sup>2</sup>Each department] The Department of Health and the  
2 Department of Community Affairs<sup>2</sup>, with the approval of the  
3 Attorney General, <sup>2</sup>is] are<sup>2</sup> hereby authorized and empowered to  
4 compromise and settle claims for the monetary penalty in  
5 appropriate circumstances where it appears to the satisfaction of the  
6 department that payment of the full penalty will work severe  
7 hardship on any individual not having sufficient financial ability to  
8 pay the full penalty but in no case shall the penalty be compromised  
9 for a sum less than \$250.00 for the first offense and \$500.00 for any  
10 subsequent offense; provided, however, that any penalty of less than  
11 \$250.00 or \$500.00, as the case may be, may be compromised for a  
12 lesser sum. The penalties authorized by this subsection shall be  
13 recovered in the manner provided for in subsection [(a)] a. of this  
14 section.

15 [(d)] d. No owner, operator, or employee of a residential health  
16 care facility shall serve notice upon a resident to leave the premises,  
17 or take any other action in retaliation for: [(a) The] (1) the efforts  
18 of the resident or a person acting on <sup>2</sup>his] the resident's<sup>2</sup> behalf to  
19 secure or enforce any rights under a contract, the laws of this State  
20 or any of its subdivisions, or the laws of the United States; or [(b)  
21 The] (2) the good faith complaint of a resident or a person acting  
22 on <sup>2</sup>his] the resident's<sup>2</sup> behalf to a governmental authority  
23 concerning the owner, operator, or employee's alleged violation of  
24 <sup>2</sup>this act] P.L.1953, c.212 (C.30:11A-1 et seq.)<sup>2</sup> or any health or  
25 safety law, regulation, code, or ordinance, or other law or regulation  
26 which has as its objective the regulation of residential health care  
27 facilities.

28 (cf: P.L.2010, c.50, s.59)

29

30 5. Section 12 of P.L.1953, c.212 (C.30:11A-12) is amended to  
31 read as follows:

32 12. Nothing in <sup>2</sup>this act] P.L.1953, c.212 (C.30:11A-1 et seq.)<sup>2</sup>  
33 shall vest authority, or be construed to vest authority, in either the  
34 Department of Health or the Department of Community Affairs, to  
35 deny any application for a certificate of approval <sup>1</sup>or license<sup>1</sup> on the  
36 sole ground that adequate residential health care facilities are  
37 already available in the vicinity or area for which the certificate of  
38 approval <sup>1</sup>or license<sup>1</sup> is sought.

39 Nothing in <sup>2</sup>this act] P.L.1953, c.212 (C.30:11A-1 et seq.)<sup>2</sup>  
40 shall be so construed as to give authority to supervise or regulate or  
41 control the remedial care or treatment of individuals who are  
42 adherents of any well-recognized church or religious denomination  
43 which subscribes to the art of healing by prayer and the principles  
44 of which are opposed to medical treatment and who are living in  
45 any home or institution operated by a member or members, or by an  
46 association or corporation composed of members of such well-  
47 recognized church or religious denomination; provided, that such



1 home or institution admits only adherents of such church or  
2 denomination and is so designated; nor shall the existence of any of  
3 the above conditions alone militate against granting a certificate of  
4 approval <sup>1</sup>or license<sup>1</sup> to such establishment; and provided further,  
5 that such establishment shall comply with all rules, regulations <sup>2</sup><sub>2</sub>  
6 and standards relating to sanitation and safety of the premises and  
7 be subject to inspection therefor.

8 (cf: P.L.1979, c.496, s.33)

9

10 6. This act shall take effect immediately.

11

12

13

14

15 Clarifies DCA rulemaking authority over free-standing  
16 residential health care facilities, and prohibits eviction of residents  
17 from such facilities, except for good cause.

**SENATE, No. 2563**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED SEPTEMBER 26, 2016

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Clarifies DCA rulemaking authority over free-standing residential health care facilities, and prohibits eviction of residents from such facilities, except for good cause.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning free-standing residential health care facilities,  
2 and amending P.L.1953, c.212.

3

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

6

7 1. Section 1 of P.L.1953, c.212 (C.30:11A-1) is amended to  
8 read as follows:

9 1. **【For purposes of】** As used in this act 【, a residential】 :

10 “Department” means the Department of Health or the  
11 Department of Community Affairs, as appropriate.

12 “Licensee” means the owner, operator, or administrator of a  
13 residential health care facility that is certified to operate pursuant to  
14 this chapter.

15 “Residential health care 【facility is defined as】 facility” means  
16 any facility, whether in single or multiple dwellings, whether public  
17 or private, whether incorporated or unincorporated, whether for  
18 profit or nonprofit, which is operated at the direction **【of】** , or under  
19 the management, of an individual or individuals, a corporation, a  
20 partnership, a society, or an association **【,】** ; which furnishes food  
21 and shelter to four or more persons 18 years of age or older who are  
22 unrelated to the proprietor **【, and】** ; which provides any one or more  
23 of such persons with dietary services, recreational activities,  
24 supervision of self-administration of medications, supervision of  
25 and assistance in activities of daily living, and assistance in  
26 obtaining health services **【to any one or more of such persons,**  
27 excluding, however,】 ; and which is regulated by either the  
28 Department of Health or the Department of Community Affairs.

29 “Residential health care facility” shall not include any community  
30 residence for the developmentally disabled, as defined in section 2  
31 of P.L.1977, c.448 (C.30:11B-2) **【,】** ; any facility or living  
32 arrangement that is operated by, or under contract with, any other  
33 State department or agency, upon the written authorization of the  
34 Commissioner of **【the Department of】** Health **【, and】** or the  
35 Commissioner of Community Affairs, as appropriate; or any  
36 privately operated establishment licensed under chapter 11 of Title  
37 30 of the Revised Statutes.

38 **【A "resident" of a residential health care facility is defined as】**  
39 “Resident” means a person 18 years of age or older who is  
40 ambulant, with or without assistive devices ; who has been certified  
41 by a licensed physician to be free from communicable disease and  
42 not in need of skilled nursing care **【,】** ; and who, except in the case  
43 of a person 65 years of age and over, is in need of dietary services,  
44 supervision of self-administration of medications, supervision of

**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 underlined thus is new matter.**

1 and assistance in activities of daily living, or assistance in obtaining  
2 health care services **[, but]** . A resident shall not be given skilled  
3 nursing care while a resident, except as hereinafter provided. The  
4 foregoing definition shall not be construed to prevent care of  
5 residents in emergencies or during temporary illness for a period of  
6 **[1] one** week or less, and shall not be construed to prevent a  
7 licensed physician from ordering nursing or other health care  
8 services.

9 (cf: P.L.1979, c.496, s.26)

10

11 2. Section 2 of P.L.1953, c.212 (C.30:11A-2) is amended to  
12 read as follows:

13 2. Residential health care facilities, as defined in section 1,  
14 shall operate within this State pursuant to certificate of approval  
15 first had and obtained for that purpose from the Department of  
16 Health or the Department of Community Affairs, as appropriate.  
17 No such certificate of approval shall be issued unless the  
18 commissioner **[shall be]** is satisfied that the institution in question  
19 is adequately prepared to furnish facilities, care, and service  
20 complying with standards **[,]** relating thereto, except that  
21 temporary permits, valid for a period not exceeding **[6] six** months  
22 and not subject to renewal, may be issued under the circumstances  
23 specified in section 6 of this act. Boarding and rooming houses  
24 shall not be construed to be within the provisions of this act.

25 (cf: P.L.1979, c.496, s.27)

26

27 3. Section 3 of P.L.1953, c. 212 (C.30:11A-3) is amended to  
28 read as follows:

29 3. a. The **[State]** Department of Health and the Department of  
30 Community Affairs, shall each adopt, promulgate, and enforce such  
31 rules, regulations, and standards with respect to the residential  
32 health care facilities **[to be]** that are approved hereunder, and that  
33 fall under each department's jurisdiction, as **[it]** each such  
34 department may deem to be necessary to assure that: persons living  
35 in such facilities are afforded the opportunity to live with as much  
36 independence, autonomy, and interaction with the surrounding  
37 community as they are capable of; such persons are afforded a  
38 minimum standard of sanitation, housekeeping, heat, light, air,  
39 food, lodging, care, service, and fire safety which also **[preserve]**  
40 preserves and **[promote]** promotes a homelike atmosphere  
41 appropriate to such facilities; such persons are not deprived of any  
42 constitutional, civil, or legal right solely by reason of their living in  
43 such facilities; **[and that]** employees of public and private agencies  
44 have reasonable access to such facilities ; and other citizens have  
45 reasonable access to such facilities upon receiving the consent of  
46 **[the]** a resident to be visited by them**;** but nothing**]** .

1        b. Nothing in this chapter [nor] , or in any rule or regulation  
2 promulgated hereunder, shall be construed to mean that any  
3 residential health care facility may advertise, hold itself out, or  
4 operate, as a nursing home. [The]

5        c. Each department may determine that the various  
6 establishments covered by this act , which are subject to each  
7 department's respective jurisdiction, are appropriately and  
8 reasonably classified into two or more classes, and may establish  
9 separate rules, regulations, and standards for each such class. Such  
10 rules, regulations, and standards shall [in any event] include, but  
11 need not be limited to, all requirements and limitations legally  
12 imposed upon any such establishment by any other municipal,  
13 county, or State office or officer having inspection, approval,  
14 licensing, or regulatory authority with respect to such  
15 establishment.

16        d. The provisions of this subsection shall apply only to those  
17 free-standing residential health care facilities that are not located  
18 with, and operated by, a licensed health care facility, and which are  
19 subject to the authority of the Department of Community Affairs.

20        (1) Unless otherwise directed or authorized by the Department  
21 of Community Affairs, no licensee shall cause any resident to be  
22 evicted from a residential health care facility that is not located  
23 with, and operated by, a licensed health care facility, except for  
24 good cause, as defined in N.J.S.A.2A:18-61.1 et seq., and except in  
25 accordance with the procedural requirements of N.J.S.A.2A:18-61.1  
26 et seq. All references in N.J.S.A.2A:18-61.1 et seq. to the terms  
27 "tenants," "tenancy," "lease," or similar terminology shall be  
28 equally applicable to residents of a residential health care facility  
29 that is not located with, and operated by, a licensed health care  
30 facility.

31        (2) A licensee may bring to the attention of the Department of  
32 Community Affairs any situation in which the licensee believes that  
33 a directive from the department, pursuant to this subsection, is  
34 necessary to facilitate the appropriate placement of a resident, and  
35 to protect the right of all residents to a safe, healthful, and decent  
36 living environment.

37        (3) In addition to the other requirements of this subsection, a  
38 licensee shall provide prompt written notice to the county welfare  
39 agency and to the New Jersey Office of the Ombudsman for the  
40 Institutionalized Elderly of any proposed eviction of a resident.  
41 The written notice required by this paragraph shall be provided at  
42 the time that a complaint for eviction is filed with the appropriate  
43 court, unless the licensee is seeking a directive from the Department  
44 of Community Affairs for the appropriate placement of a resident  
45 pursuant to paragraph (2) of this subsection, in which case, the  
46 written notice required under this paragraph shall be provided  
47 contemporaneously with the initial communication to the  
48 Department of Community Affairs.

1       (4) In accordance with the “Administrative Procedure Act,”  
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of  
3 Community Affairs shall adopt, promulgate, and enforce rules and  
4 regulations as may be necessary to implement the provisions of this  
5 subsection.

6 (cf: P.L.1979, c.496, s.28)

7  
8       4. Section 10 of P.L.1953, c.212 (C.30:11A-10) is amended to  
9 read as follows:

10       10. **[(a)] a.** Any person, firm, corporation, partnership, society,  
11 or association who shall operate or conduct a residential health care  
12 facility without first obtaining the certificate of approval required  
13 by this act, or who shall operate such establishment after revocation  
14 or suspension of a certificate of approval, shall be liable to a penalty  
15 of \$10.00 for each day of operation in violation hereof for the first  
16 offense, and for any subsequent offense shall be liable to a penalty  
17 of \$20.00 for each day of operation in violation hereof.

18       The penalties authorized by this section shall be recovered in a  
19 summary proceeding, brought in the name of the State of New  
20 Jersey pursuant to the "Penalty Enforcement Law of 1999,"  
21 P.L.1999, c.74 (C.2A:58-10 et seq.). Money penalties, when  
22 recovered, shall be payable to the General State Fund.

23       The department may, in the manner provided by law, maintain an  
24 action in the name of the State of New Jersey for injunctive relief  
25 against any person, firm, corporation, partnership, society, or  
26 association **[, continuing]** that continues to conduct, manage, or  
27 operate a residential health care facility without a certificate of  
28 approval, or after suspension or revocation of such certificate.

29       The practice and procedure in actions instituted under authority  
30 of this section shall conform to the practice and procedure in the  
31 court in which the action is instituted.

32       No officer or agent of any municipal or county agency having  
33 responsibility for making payments of any form of public assistance  
34 under the provisions of Title 44 of the Revised Statutes, shall make  
35 such payments to or on behalf of a person residing in a residential  
36 health care facility as defined in this act, unless such establishment  
37 is, at the time of such payment, approved or provisionally approved  
38 pursuant to this act.

39       **[(b)] b.** No residential health care facility, licensed hereunder,  
40 shall by public or private advertisement or by any other means hold  
41 out to the public that it is equipped to provide post-operative or  
42 convalescent care for persons with a mental illness or an intellectual  
43 disability or who are suffering or recovering from illness or injury  
44 or who are critically ill. Any person, firm, association, partnership,  
45 society, or corporation who violates the provisions of this  
46 subsection shall cease and desist from such practices and shall be  
47 liable to a penalty of \$100.00 for the first and \$200.00 for each

1 subsequent offense, **【such】** which penalties shall be recovered in  
2 the manner provided for in subsection **【(a)】** a. of this section.

3 **【(c)】** c. No residential health care facility licensed hereunder,  
4 shall operate as a private mental hospital, convalescent home,  
5 private nursing home, or private hospital, unless it is licensed  
6 pursuant to chapter 11 of Title 30 of the Revised Statutes.  
7 Whenever there is reason to believe that any such facility or  
8 institution is in violation of the provisions of this subsection, the  
9 department may conduct a reasonable inspection of the premises for  
10 the purpose of ascertaining whether there is any violation. Any  
11 facility or institution which violates the provisions of this  
12 subsection shall be liable to a penalty of \$25.00 for each day of  
13 operation in violation of this subsection for the first offense and to a  
14 penalty of \$50.00 for each day of operation for any subsequent  
15 offense. **【The Department of Health and Senior Services】** Each  
16 department, with the approval of the Attorney General, is hereby  
17 authorized and empowered to compromise and settle claims for the  
18 monetary penalty in appropriate circumstances where it appears to  
19 the satisfaction of the department that payment of the full penalty  
20 will work severe hardship on any individual not having sufficient  
21 financial ability to pay the full penalty but in no case shall the  
22 penalty be compromised for a sum less than \$250.00 for the first  
23 offense and \$500.00 for any subsequent offense; provided,  
24 however, that any penalty of less than \$250.00 or \$500.00, as the  
25 case may be, may be compromised for a lesser sum. The penalties  
26 authorized by this subsection shall be recovered in the manner  
27 provided for in subsection **【(a)】** a. of this section.

28 **【(d)】** d. No owner, operator, or employee of a residential health  
29 care facility shall serve notice upon a resident to leave the premises,  
30 or take any other action in retaliation for: **【(a) The】** (1) the efforts  
31 of the resident or a person acting on his behalf to secure or enforce  
32 any rights under a contract, the laws of this State or any of its  
33 subdivisions, or the laws of the United States; or **【(b) The】** (2) the  
34 good faith complaint of a resident or a person acting on his behalf  
35 to a governmental authority concerning the owner, operator, or  
36 employee's alleged violation of this act or any health or safety law,  
37 regulation, code, or ordinance, or other law or regulation which has  
38 as its objective the regulation of residential health care facilities.  
39 (cf: P.L.2010, c.50, s.59)

40

41 5. Section 12 of P.L.1953, c.212 (C.30:11A-12) is amended to  
42 read as follows:

43 12. Nothing in this act shall vest authority, or be construed to  
44 vest authority, in either the Department of Health or the Department  
45 of Community Affairs, to deny any application for a certificate of  
46 approval on the sole ground that adequate residential health care  
47 facilities are already available in the vicinity or area for which the  
48 certificate of approval is sought.

1 Nothing in this act shall be so construed as to give authority to  
2 supervise or regulate or control the remedial care or treatment of  
3 individuals who are adherents of any well-recognized church or  
4 religious denomination which subscribes to the art of healing by  
5 prayer and the principles of which are opposed to medical treatment  
6 and who are living in any home or institution operated by a member  
7 or members, or by an association or corporation composed of  
8 members of such well-recognized church or religious denomination;  
9 provided, that such home or institution admits only adherents of  
10 such church or denomination and is so designated; nor shall the  
11 existence of any of the above conditions alone militate against  
12 granting a certificate of approval to such establishment; and  
13 provided further, that such establishment shall comply with all  
14 rules, regulations and standards relating to sanitation and safety of  
15 the premises and be subject to inspection therefor.

16 (cf: P.L.1979, c.496, s.33)

17

18 6. This act shall take effect immediately.

19

20

21

#### STATEMENT

22

23 This bill would prohibit the eviction of a resident of a free-  
24 standing residential health care facility, except for good cause.

25 The bill would provide that, unless otherwise directed or  
26 authorized by the Department of Community Affairs (DCA), the  
27 owner, operator, or administrator of a free-standing residential  
28 health care facility may not evict any resident of such facility,  
29 except in accordance with the procedural requirements of P.L.1974,  
30 c.49 (C.2A:18-61.1 et seq.) – which is the general law pertaining to  
31 the eviction of tenants – and except for good cause, as defined by  
32 section 2 of P.L.1974, c.49 (C.2A:18-61.1).

33 The bill would authorize the owner, operator, or administrator of  
34 a free-standing residential health care facility to notify the DCA  
35 whenever the person believes that a DCA directive or authorization,  
36 allowing eviction without compliance with the bill's provisions, is  
37 necessary to facilitate the appropriate placement of a resident, and  
38 to protect the right of all residents to a safe, healthful, and decent  
39 living environment.

40 The bill would additionally require the owner, operator, or  
41 administrator of a free-standing residential health care facility to  
42 provide prompt written notice to the county welfare agency and to  
43 the New Jersey Office of the Ombudsman for the Institutionalized  
44 Elderly of any proposed eviction of a resident. The written notice is  
45 to be provided at the time that a complaint for eviction is filed with  
46 the appropriate court, unless the licensee is seeking a directive from  
47 the DCA for the appropriate placement of a resident, as authorized



1 by the bill, in which case, the written notice is to be provided  
2 contemporaneously with the initial communication to the DCA.

3 The DCA would be required to adopt rules and regulations to  
4 implement the bill's provisions.

5 The bill also amends the existing law pertaining to residential  
6 health care facilities, in order to clarify that these facilities are now  
7 subject to regulation by two different executive departments, as  
8 provided by Reorganization Plan No. 002-2005 (adopted under  
9 Governor Corzine). In particular, the Department of Health (DOH)  
10 is now responsible for regulating only those residential health care  
11 facilities that are located with, and operated by, another DOH  
12 licensed health care facility, while the DCA is responsible for  
13 regulating free-standing residential health care facilities which are  
14 not located with, or operated by, a DOH licensed health care  
15 facility.

16 In 2007, the Community Health Law Project filed a petition for  
17 rulemaking with the DCA, seeking to have residents of free-  
18 standing residential health care facilities provided with the same  
19 rights regarding eviction as people in boarding homes, which are  
20 also regulated by the DCA. However, because the DCA's authority,  
21 in this regard, comes from a reorganization plan, and the existing  
22 law at N.J.S.A.30:11A-1 et seq. indicates only that the DOH has  
23 express regulatory authority over residential health care facilities,  
24 the DCA concluded that it lacked the proper statutory authority to  
25 impose regulatory anti-eviction protections in relation to free-  
26 standing residential health care facilities. This bill, therefore, is  
27 intended to clarify both that the DCA has statutory authority to  
28 adopt regulations in relation to free-standing residential health care  
29 facilities, and that residents of such facilities are entitled to the  
30 same anti-eviction rights and protections as those that are currently  
31 applicable to residents of boarding homes and tenants of other  
32 housing.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2563**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 1, 2017

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2563.

As amended by the committee, this bill would prohibit the eviction of a resident of a free-standing residential health care facility, except for good cause.

The bill would provide that the owner, operator, or administrator of a free-standing residential health care facility may not evict any resident of such facility, except in accordance with the procedural requirements of P.L.1974, c.49 (C.2A:18-61.1 et seq.) – which is the general law pertaining to the eviction of tenants – and except for good cause, as defined by section 2 of P.L.1974, c.49 (C.2A:18-61.1). Nothing in the bill’s provisions would prohibit the transfer of a resident to a screening center for evaluation of whether the resident poses a risk of danger to himself or others. In such event, the facility licensee would be authorized to contemporaneously proceed with eviction against such resident pursuant to N.J.S.A.2A:18-61.1 et seq.

The bill would additionally require the owner, operator, or administrator of a free-standing residential health care facility to provide prompt written notice to the county welfare agency, the Department of Community Affairs (DCA), and the New Jersey Office of the Ombudsman for the Institutionalized Elderly, of any proposed eviction of a resident. The written notice is to be provided at the time that a complaint for eviction is filed with the appropriate court.

The bill also amends the existing law pertaining to residential health care facilities, in order to clarify that these facilities are now subject to regulation by two different executive departments, as provided by Reorganization Plan No. 002-2005 (adopted under Governor Corzine). In particular, the Department of Health (DOH) is now responsible for regulating only those residential health care facilities that are located with, and operated by, another DOH licensed health care facility, while the DCA is responsible for regulating free-standing residential health care facilities which are not located with, or operated by, a DOH licensed health care facility.

In 2007, the Community Health Law Project filed a petition for rulemaking with the DCA, seeking to have residents of free-standing residential health care facilities provided with the same rights regarding eviction as people in boarding homes, which are also regulated by the DCA. However, because the DCA's authority, in this regard, comes from a reorganization plan, and the existing law at N.J.S.A.30:11A-1 et seq. indicates only that the DOH has express regulatory authority over residential health care facilities, the DCA concluded that it lacked the proper statutory authority to impose regulatory anti-eviction protections in relation to free-standing residential health care facilities. This bill, therefore, is intended to clarify both that the DCA has statutory authority to adopt regulations in relation to free-standing residential health care facilities, and that residents of such facilities are entitled to the same anti-eviction rights and protections as those that are currently applicable to residents of boarding homes and tenants of other housing.

The committee amended the bill to:

- clarify that a residential health care facility may be authorized to operate pursuant to a DCA license (as opposed to a certificate of approval);
- remove the provisions that would have authorized the DCA to issue a directive or authorization allowing the eviction of a resident without compliance with the bill's provisions, if such action is necessary to facilitate the appropriate placement of the resident and protect the right of all residents to a safe, healthful, and decent living environment;
- insert a new provision specifying that nothing in the act shall be deemed to prohibit the transfer of a resident of a freestanding facility to a screening center for evaluation of whether the resident poses a risk of danger to himself or others, and further providing that, in such a case, the facility licensee will be authorized to proceed contemporaneously with eviction against the resident;
- require prompt written notice of any proposed eviction to be submitted to the DCA, in addition to the county welfare agency and the Office of Ombudsman for the Institutionalized Elderly;
- remove the provision that would have granted the DCA specific rulemaking authority in relation to the eviction of residents from a freestanding residential health care facility, since the bill already clarifies that the DCA has general rulemaking authority over all the residential health care facilities under its jurisdiction.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2563**

with Senate Floor Amendments  
(Proposed by Senator WEINBERG)

ADOPTED: JUNE 19, 2017

These Senate floor amendments require that the written notice required under the bill is to be appended to the complaint for eviction filed with the court, and that no Judgment of Possession may be entered unless this requirement is met.

These Senate floor amendments make a number of technical revisions to update and clarify certain statutory citations and other references throughout the bill.

# ASSEMBLY, No. 4163

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED SEPTEMBER 19, 2016

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**SYNOPSIS**

Clarifies DCA rulemaking authority over free-standing residential health care facilities, and prohibits eviction of residents from such facilities, except for good cause.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/7/2016)**

1 AN ACT concerning free-standing residential health care facilities,  
2 and amending P.L.1953, c.212.

3

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

6

7 1. Section 1 of P.L.1953, c.212 (C.30:11A-1) is amended to  
8 read as follows:

9 1. **【For purposes of】** As used in this act **【, a residential】** :

10 “Department” means the Department of Health or the  
11 Department of Community Affairs, as appropriate.

12 “Licensee” means the owner, operator, or administrator of a  
13 residential health care facility that is certified to operate pursuant to  
14 this chapter.

15 “Residential health care 【facility is defined as】 facility” means  
16 any facility, whether in single or multiple dwellings, whether public  
17 or private, whether incorporated or unincorporated, whether for  
18 profit or nonprofit, which is operated at the direction **【of】** , or under  
19 the management, of an individual or individuals, a corporation, a  
20 partnership, a society, or an association **【,】** ; which furnishes food  
21 and shelter to four or more persons 18 years of age or older who are  
22 unrelated to the proprietor **【, and】** ; which provides any one or more  
23 of such persons with dietary services, recreational activities,  
24 supervision of self-administration of medications, supervision of  
25 and assistance in activities of daily living, and assistance in  
26 obtaining health services **【to any one or more of such persons,**  
27 excluding, however, **【】** ; and which is regulated by either the  
28 Department of Health or the Department of Community Affairs.

29 “Residential health care facility” shall not include any community  
30 residence for the developmentally disabled, as defined in section 2  
31 of P.L.1977, c.448 (C.30:11B-2) **【,】** ; any facility or living  
32 arrangement that is operated by, or under contract with, any other  
33 State department or agency, upon the written authorization of the  
34 Commissioner of **【the Department of】** Health **【, and】** or the  
35 Commissioner of Community Affairs, as appropriate; or any  
36 privately operated establishment licensed under chapter 11 of Title  
37 30 of the Revised Statutes.

38 **【A "resident" of a residential health care facility is defined as】**  
39 “Resident” means a person 18 years of age or older who is  
40 ambulant, with or without assistive devices ; who has been certified  
41 by a licensed physician to be free from communicable disease and  
42 not in need of skilled nursing care **【,】** ; and who, except in the case  
43 of a person 65 years of age and over, is in need of dietary services,  
44 supervision of self-administration of medications, supervision of

**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 underlined thus is new matter.**

1 and assistance in activities of daily living, or assistance in obtaining  
2 health care services **[, but]** . A resident shall not be given skilled  
3 nursing care while a resident, except as hereinafter provided. The  
4 foregoing definition shall not be construed to prevent care of  
5 residents in emergencies or during temporary illness for a period of  
6 **[1] one** week or less, and shall not be construed to prevent a  
7 licensed physician from ordering nursing or other health care  
8 services.

9 (cf: P.L.1979, c.496, s.26)

10  
11 2. Section 2 of P.L.1953, c.212 (C.30:11A-2) is amended to  
12 read as follows:

13 2. Residential health care facilities, as defined in section 1,  
14 shall operate within this State pursuant to certificate of approval  
15 first had and obtained for that purpose from the Department of  
16 Health or the Department of Community Affairs, as appropriate.  
17 No such certificate of approval shall be issued unless the  
18 commissioner **[shall be]** is satisfied that the institution in question  
19 is adequately prepared to furnish facilities, care, and service  
20 complying with standards **[,]** relating thereto, except that  
21 temporary permits, valid for a period not exceeding **[6] six** months  
22 and not subject to renewal, may be issued under the circumstances  
23 specified in section 6 of this act. Boarding and rooming houses  
24 shall not be construed to be within the provisions of this act.

25 (cf: P.L.1979, c.496, s.27)

26  
27 3. Section 3 of P.L.1953, c. 212 (C.30:11A-3) is amended to  
28 read as follows:

29 3. a. The **[State]** Department of Health and the Department of  
30 Community Affairs, shall each adopt, promulgate, and enforce such  
31 rules, regulations, and standards with respect to the residential  
32 health care facilities **[to be]** that are approved hereunder, and that  
33 fall under each department's jurisdiction, as **[it]** each such  
34 department may deem to be necessary to assure that: persons living  
35 in such facilities are afforded the opportunity to live with as much  
36 independence, autonomy, and interaction with the surrounding  
37 community as they are capable of; such persons are afforded a  
38 minimum standard of sanitation, housekeeping, heat, light, air,  
39 food, lodging, care, service, and fire safety which also **[preserve]**  
40 preserves and **[promote]** promotes a homelike atmosphere  
41 appropriate to such facilities; such persons are not deprived of any  
42 constitutional, civil, or legal right solely by reason of their living in  
43 such facilities; **[and that]** employees of public and private agencies  
44 have reasonable access to such facilities ; and other citizens have  
45 reasonable access to such facilities upon receiving the consent of  
46 **[the]** a resident to be visited by them**;** but nothing**]** .

1        b. Nothing in this chapter **【nor】** , or in any rule or regulation  
2 promulgated hereunder, shall be construed to mean that any  
3 residential health care facility may advertise, hold itself out, or  
4 operate, as a nursing home. **【The】**

5        c. Each department may determine that the various  
6 establishments covered by this act , which are subject to each  
7 department's respective jurisdiction, are appropriately and  
8 reasonably classified into two or more classes, and may establish  
9 separate rules, regulations, and standards for each such class. Such  
10 rules, regulations, and standards shall **【in any event】** include, but  
11 need not be limited to, all requirements and limitations legally  
12 imposed upon any such establishment by any other municipal,  
13 county, or State office or officer having inspection, approval,  
14 licensing, or regulatory authority with respect to such  
15 establishment.

16        d. The provisions of this subsection shall apply only to those  
17 free-standing residential health care facilities that are not located  
18 with, and operated by, a licensed health care facility, and which are  
19 subject to the authority of the Department of Community Affairs.

20        (1) Unless otherwise directed or authorized by the Department  
21 of Community Affairs, no licensee shall cause any resident to be  
22 evicted from a residential health care facility that is not located  
23 with, and operated by, a licensed health care facility, except for  
24 good cause, as defined in N.J.S.A.2A:18-61.1 et seq., and except in  
25 accordance with the procedural requirements of N.J.S.A.2A:18-61.1  
26 et seq. All references in N.J.S.A.2A:18-61.1 et seq. to the terms  
27 “tenants,” “tenancy,” “lease,” or similar terminology shall be  
28 equally applicable to residents of a residential health care facility  
29 that is not located with, and operated by, a licensed health care  
30 facility.

31        (2) A licensee may bring to the attention of the Department of  
32 Community Affairs any situation in which the licensee believes that  
33 a directive from the department, pursuant to this subsection, is  
34 necessary to facilitate the appropriate placement of a resident, and  
35 to protect the right of all residents to a safe, healthful, and decent  
36 living environment.

37        (3) In addition to the other requirements of this subsection, a  
38 licensee shall provide prompt written notice to the county welfare  
39 agency and to the New Jersey Office of the Ombudsman for the  
40 Institutionalized Elderly of any proposed eviction of a resident.  
41 The written notice required by this paragraph shall be provided at  
42 the time that a complaint for eviction is filed with the appropriate  
43 court, unless the licensee is seeking a directive from the Department  
44 of Community Affairs for the appropriate placement of a resident  
45 pursuant to paragraph (2) of this subsection, in which case, the  
46 written notice required under this paragraph shall be provided  
47 contemporaneously with the initial communication to the  
48 Department of Community Affairs.



1       (4) In accordance with the “Administrative Procedure Act,”  
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of  
3 Community Affairs shall adopt, promulgate, and enforce rules and  
4 regulations as may be necessary to implement the provisions of this  
5 subsection.

6 (cf: P.L.1979, c. 496, s.28)

7  
8       4. Section 10 of P.L.1953, c.212 (C.30:11A-10) is amended to  
9 read as follows:

10       10. **[(a)] a.** Any person, firm, corporation, partnership, society,  
11 or association who shall operate or conduct a residential health care  
12 facility without first obtaining the certificate of approval required  
13 by this act, or who shall operate such establishment after revocation  
14 or suspension of a certificate of approval, shall be liable to a penalty  
15 of \$10.00 for each day of operation in violation hereof for the first  
16 offense, and for any subsequent offense shall be liable to a penalty  
17 of \$20.00 for each day of operation in violation hereof.

18       The penalties authorized by this section shall be recovered in a  
19 summary proceeding, brought in the name of the State of New  
20 Jersey pursuant to the "Penalty Enforcement Law of 1999,"  
21 P.L.1999, c.74 (C.2A:58-10 et seq.). Money penalties, when  
22 recovered, shall be payable to the General State Fund.

23       The department may, in the manner provided by law, maintain an  
24 action in the name of the State of New Jersey for injunctive relief  
25 against any person, firm, corporation, partnership, society, or  
26 association **[, continuing]** that continues to conduct, manage, or  
27 operate a residential health care facility without a certificate of  
28 approval, or after suspension or revocation of such certificate.

29       The practice and procedure in actions instituted under authority  
30 of this section shall conform to the practice and procedure in the  
31 court in which the action is instituted.

32       No officer or agent of any municipal or county agency having  
33 responsibility for making payments of any form of public assistance  
34 under the provisions of Title 44 of the Revised Statutes, shall make  
35 such payments to or on behalf of a person residing in a residential  
36 health care facility as defined in this act, unless such establishment  
37 is, at the time of such payment, approved or provisionally approved  
38 pursuant to this act.

39       **[(b)] b.** No residential health care facility, licensed  
40 hereunder, shall by public or private advertisement or by any other  
41 means hold out to the public that it is equipped to provide post-  
42 operative or convalescent care for persons with a mental illness or  
43 an intellectual disability or who are suffering or recovering from  
44 illness or injury or who are critically ill. Any person, firm,  
45 association, partnership, society, or corporation who violates the  
46 provisions of this subsection shall cease and desist from such  
47 practices and shall be liable to a penalty of \$100.00 for the first and  
48 \$200.00 for each subsequent offense, **[such]** which penalties shall

1 be recovered in the manner provided for in subsection **[(a)] a.** of  
2 this section.

3 **[(c)] c.** No residential health care facility licensed hereunder,  
4 shall operate as a private mental hospital, convalescent home,  
5 private nursing home, or private hospital, unless it is licensed  
6 pursuant to chapter 11 of Title 30 of the Revised Statutes.  
7 Whenever there is reason to believe that any such facility or  
8 institution is in violation of the provisions of this subsection, the  
9 department may conduct a reasonable inspection of the premises for  
10 the purpose of ascertaining whether there is any violation. Any  
11 facility or institution which violates the provisions of this  
12 subsection shall be liable to a penalty of \$25.00 for each day of  
13 operation in violation of this subsection for the first offense and to a  
14 penalty of \$50.00 for each day of operation for any subsequent  
15 offense. **[The Department of Health and Senior Services]** Each  
16 department, with the approval of the Attorney General, is hereby  
17 authorized and empowered to compromise and settle claims for the  
18 monetary penalty in appropriate circumstances where it appears to  
19 the satisfaction of the department that payment of the full penalty  
20 will work severe hardship on any individual not having sufficient  
21 financial ability to pay the full penalty but in no case shall the  
22 penalty be compromised for a sum less than \$250.00 for the first  
23 offense and \$500.00 for any subsequent offense; provided,  
24 however, that any penalty of less than \$250.00 or \$500.00, as the  
25 case may be, may be compromised for a lesser sum. The penalties  
26 authorized by this subsection shall be recovered in the manner  
27 provided for in subsection **[(a)] a.** of this section.

28 **[(d)] d.** No owner, operator, or employee of a residential health  
29 care facility shall serve notice upon a resident to leave the premises,  
30 or take any other action in retaliation for: **[(a) The]** (1) the efforts  
31 of the resident or a person acting on his behalf to secure or enforce  
32 any rights under a contract, the laws of this State or any of its  
33 subdivisions, or the laws of the United States; or **[(b) The]** (2) the  
34 good faith complaint of a resident or a person acting on his behalf  
35 to a governmental authority concerning the owner, operator, or  
36 employee's alleged violation of this act or any health or safety law,  
37 regulation, code, or ordinance, or other law or regulation which has  
38 as its objective the regulation of residential health care facilities.  
39 (cf: P.L.2010, c.50, s.59)

40

41 5. Section 12 of P.L.1953, c.212 (C.30:11A-12) is amended to  
42 read as follows:

43 12. Nothing in this act shall vest authority, or be construed to  
44 vest authority, in either the Department of Health or the Department  
45 of Community Affairs, to deny any application for a certificate of  
46 approval on the sole ground that adequate residential health care  
47 facilities are already available in the vicinity or area for which the  
48 certificate of approval is sought.

1 Nothing in this act shall be so construed as to give authority to  
2 supervise or regulate or control the remedial care or treatment of  
3 individuals who are adherents of any well-recognized church or  
4 religious denomination which subscribes to the art of healing by  
5 prayer and the principles of which are opposed to medical treatment  
6 and who are living in any home or institution operated by a member  
7 or members, or by an association or corporation composed of  
8 members of such well-recognized church or religious denomination;  
9 provided, that such home or institution admits only adherents of  
10 such church or denomination and is so designated; nor shall the  
11 existence of any of the above conditions alone militate against  
12 granting a certificate of approval to such establishment; and  
13 provided further, that such establishment shall comply with all  
14 rules, regulations and standards relating to sanitation and safety of  
15 the premises and be subject to inspection therefor.

16 (cf: P.L.1979, c.496, s.33)

17

18 6. This act shall take effect immediately.

19

20

21

#### STATEMENT

22

23 This bill would prohibit the eviction of a resident of a free-  
24 standing residential health care facility, except for good cause.

25 The bill would provide that, unless otherwise directed or  
26 authorized by the Department of Community Affairs (DCA), the  
27 owner, operator, or administrator of a free-standing residential  
28 health care facility may not evict any resident of such facility,  
29 except in accordance with the procedural requirements of P.L.1974,  
30 c.49 (C.2A:18-61.1 et seq.) – which is the general law pertaining to  
31 the eviction of tenants – and except for good cause, as defined by  
32 section 2 of P.L.1974, c.49 (C.2A:18-61.1).

33 The bill would authorize the owner, operator, or administrator of  
34 a free-standing residential health care facility to notify the DCA  
35 whenever the person believes that a DCA directive or authorization,  
36 allowing eviction without compliance with the bill's provisions, is  
37 necessary to facilitate the appropriate placement of a resident, and  
38 to protect the right of all residents to a safe, healthful, and decent  
39 living environment.

40 The bill would additionally require the owner, operator, or  
41 administrator of a free-standing residential health care facility to  
42 provide prompt written notice to the county welfare agency and to  
43 the New Jersey Office of the Ombudsman for the Institutionalized  
44 Elderly of any proposed eviction of a resident. The written notice is  
45 to be provided at the time that a complaint for eviction is filed with  
46 the appropriate court, unless the licensee is seeking a directive from  
47 the DCA for the appropriate placement of a resident, as authorized

1 by the bill, in which case, the written notice is to be provided  
2 contemporaneously with the initial communication to the DCA.

3 The DCA would be required to adopt rules and regulations to  
4 implement the bill's provisions.

5 The bill also amends the existing law pertaining to residential  
6 health care facilities, in order to clarify that these facilities are now  
7 subject to regulation by two different executive departments, as  
8 provided by Reorganization Plan No. 002-2005 (adopted under  
9 Governor Corzine). In particular, the Department of Health (DOH)  
10 is now responsible for regulating only those residential health care  
11 facilities that are located with, and operated by, another DOH  
12 licensed health care facility, while the DCA is responsible for  
13 regulating free-standing residential health care facilities which are  
14 not located with, or operated by, a DOH licensed health care  
15 facility.

16 In 2007, the Community Health Law Project filed a petition for  
17 rulemaking with the DCA, seeking to have residents of free-  
18 standing residential health care facilities provided with the same  
19 rights regarding eviction as people in boarding homes, which are  
20 also regulated by the DCA. However, because the DCA's authority,  
21 in this regard, comes from a reorganization plan, and the existing  
22 law at N.J.S.A.30:11A-1 et seq. indicates only that the DOH has  
23 express regulatory authority over residential health care facilities,  
24 the DCA concluded that it lacked the proper statutory authority to  
25 impose regulatory anti-eviction protections in relation to free-  
26 standing residential health care facilities. This bill, therefore, is  
27 intended to clarify both that the DCA has statutory authority to  
28 adopt regulations in relation to free-standing residential health care  
29 facilities, and that residents of such facilities are entitled to the  
30 same anti-eviction rights and protections as those that are currently  
31 applicable to residents of boarding homes and tenants of other  
32 housing.

# ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4163**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 1, 2017

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 4163.

As amended by the committee, this bill prohibits residents of free-standing residential health care facilities from being evicted, except for good cause.

As amended by the committee, the bill provides that, unless otherwise directed or authorized by the Department of Community Affairs (DCA), the owner, operator, or administrator of a free-standing residential health care facility may not evict any resident of the facility except in accordance with the procedural requirements of P.L.1974, c.49 (C.2A:18-61.1 et seq.), which is the section of law that generally pertains to the eviction of tenants, and except for good cause, as defined in section 2 of P.L.1974, c.49 (C.2A:18-61.1). However, the committee amendments clarify that nothing in the provisions of the bill will prohibit the transfer of a resident to a screening center for an evaluation to determine whether the resident poses a risk of danger to the resident's own self or to others. In the event of such transfer, the facility will be authorized to contemporaneously proceed with eviction proceedings.

The bill additionally requires the owner, operator, or administrator of a free-standing residential health care facility to provide prompt written notice to the county welfare agency, the DCA, and the New Jersey Ombudsman for the Institutionalized Elderly of any proposed eviction of a resident. The written notice is to be provided at the time that a complaint for eviction is filed with the appropriate court.

The bill also amends the existing statutes pertaining to residential health care facilities to clarify that, as provided in Reorganization Plan No. 002-2005, these facilities are now subject to regulation by two different executive departments: the Department of Health (DOH), which is responsible for regulating only those residential health care facilities that are located with, and operated by, another DOH licensed health care facility; and the DCA, which is responsible for regulating free-standing residential health care facilities which are not located with, or operated by, a DOH licensed health care facility.

In 2007, the Community Health Law Project filed a petition for rulemaking with the DCA, seeking to have the same protections

against eviction that apply to people in boarding homes, which are regulated by the DCA, apply to residents of free-standing residential health care facilities. However, the DCA concluded that, because its authority over residential health care facilities was established by a reorganization plan, and because the current statutory law provides that the DOH is the only department with express regulatory authority over residential health care facilities, DCA lacks the proper statutory authority to enforce regulatory anti-eviction protections against free-standing residential health care facilities. Accordingly, this bill clarifies both that the DCA has the statutory authority to adopt regulations in relation to free-standing residential health care facilities, and that residents of such facilities are entitled to the same anti-eviction rights and protections as currently apply to residents of boarding homes and other housing tenants.

#### COMMITTEE AMENDMENTS:

The committee amendments add a provision to the bill providing that the anti-eviction protections extended to residential health care facilities under the bill do not prohibit the transfer of a resident to a screening center for an evaluation to determine whether the resident poses a risk of danger to the resident's own self or to others, and that, in the event of such transfer, the facility may contemporaneously proceed with eviction proceedings against the resident.

The committee amendments remove a provision that would authorize the Department of Community Affairs (DCA) to issue a directive or authorization allowing the eviction of a resident without compliance with the provisions of the bill, if such directive or authorization would be necessary to ensure the appropriate placement of the resident and to protect the right of all residents to a safe, healthful, and decent living environment.

The committee amendments require that prompt written notice of a proposed eviction of a resident is to be provided by the facility to the DCA in addition to the county welfare agency and the New Jersey Ombudsman for the Institutionalized Elderly, as provided in the bill as introduced.

The committee amendments remove a provision that would establish separate rulemaking authority for the DCA in relation to the eviction of residents, as the bill separately establishes that the DCA has general rulemaking authority with regard to residential health care facilities under its jurisdiction.

The committee amendments update certain references in the bill to clarify that the authority to operate a residential health care facility issued by the DCA is issued pursuant to a license, not a certificate of approval, which is issued by the Department of Health.

The committee amendments make a number of technical revisions to update and clarify certain statutory citations and other references in the bill.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 4163**

with Assembly Floor Amendments  
(Proposed by Assemblywoman VAINIERI HUTTLE)

ADOPTED: JUNE 22, 2017

These Assembly floor amendments require that the written notice required under the bill is to be appended to the complaint for eviction filed with the court, and that no Judgment of Possession may be entered unless this requirement is met. The amendments also incorporate additional cross-references to appropriate and relevant terms.

These Assembly floor amendments make this bill identical to Senate Bill No. 2563(2R).

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 4163**

with Assembly Floor Amendments  
(Proposed by Assemblywoman VAINIERI HUTTLE)

ADOPTED: JULY 31, 2017

These Assembly floor amendments make technical corrections to the bill to make it identical to Senate Bill No. 2563(2R).



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### BILLS SIGNED:

**S-2512/A-4446 (Madden, Beach/Quijano)** - Concerns employee leasing agreements

**S-2563/A-4163 (Weinberg, T. Kean/Vainieri Huttle, Lampitt, O'Scanlon, McKnight)** - Clarifies DCA rulemaking authority over free-standing residential health care facilities, and prohibits eviction of residents from such facilities, except for good cause

**A-1661/S-3217 (Schaer, Danielsen, Dancer, Sumter/Cunningham)** - Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances

**ACS for A-2511/SCS for S-2211 (Eustace/Turner)** - Requires life insurers to use federal death master file to identify potential matches

**A-3433/S-2527 (Greenwald, Jones, Singleton, Webber/Diegnan)** - "Uniform Fiduciary Access to Digital Assets Act"; authorizes executor, agent, guardian, or trustee, under certain circumstances, to manage electronic records of decedent, principal, incapacitated person, or trust creator

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