

LEGISLATIVE HISTORY OF R.S.26:2H-1  
(Health Care Facilities Planning Act)

Previous bills

1968 - D904	Died in Committee
A200	" "
1969 - A582	" "
S301	" "
1970 - A200	Withdrawn from files
A405	Died in Committee
A941	Vetoed by Governor (copy enclosed of bill and veto)
A1203	Died in Committee
S330	" "
S951	" "

L.1971 - chap.136 - S2088

Feb.11 - Introduced by Dumont and Others.  
 Apr.5 - Passed Senate under emergency resolution, amended.  
 Apr.29 - Passed in Assembly.  
 May 10 - Approved, Chapter 136, 1971.  
 Amended during passage, (copy enclosed).  
 Statement (copy enclosed).

Hearings and reports:

974.90 New Jersey. Legislature. Senate Committee on  
 H434 Institutions and Welfare  
 1969a Public hearing...

Note: This report mentions a special message of the Governor.  
 a copy is enclosed of the April 29, 1969 "Special  
 message on Health" of Governor Hughes to the Legislature.

974.90 New Jersey. Legislature. Senate, Committee on  
 H434 Institutions and Welfare.  
 1970 c Public hearing on Senate bill no. 330  
 (Licensing and regulation of Medical care  
 facilities).

A few clippings are listed and copies enclosed from V.F. N.J.-  
 Hospitals - Regulation

DEPOSITORY COPY

Do Not Remove From Library

Lamendola, Linda "Governor firm on bill to control health care costs", Newark Star Ledger, March 14, 1971

"State health care bill ready soon for legislative action" Newark Evening News March 24, 1971

Bentley, Art "Senate-ek's proposal for health care" Courier-Post April 6, 1971

Lamendola, Linda "Hospital controls win final approval" Newark Star Ledger April 30, 1971

"Law sets hospital controls" Newark Evening News May 11, 1971

\* Note  
974.90  
H 828  
1971

P. H. on S 2088 (Health Care Facilities Act) held March 23, 1971. Hearing is not listed in Legislative Order. Was held but never transcribed or printed. Copies filed in Office of Hearings Stenographer, X 7925.  
(609)-292-7925

JH/EH  
Encl.

SENATE, No. 2088

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1971

By Senators DUMONT, MARAZITI and DICKINSON

Referred to Committee on Institutions and Welfare

AN ACT concerning the licensing and regulation of medical care facilities, transferring certain powers and duties from the Department of Institutions and Agencies to the State Department of Health, and to amend "An act concerning hospital service corporations and regulating the establishment, maintenance and operation of hospital service plans, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'Hospital Service Corporations,' " approved June 14, 1938 (P. L. 1938, c. 366).

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

1 1. It is hereby declared to be the public policy of the State that  
2 hospital and related health care services of the highest quality, of  
3 demonstrated need, efficiently provided and properly utilized at a  
4 reasonable cost are of vital concern to the public health. In order  
5 to provide for the protection and promotion of the health of the  
6 inhabitants of the State, the State Department of Health, which has  
7 been designated as the sole agency in this State for comprehensive  
8 health planning under the "Comprehensive Health Planning and  
9 Public Health Services Amendments of 1966" (Federal Law  
10 89-749), as amended and supplemented, shall have the central,  
11 comprehensive responsibility for the development and administra-  
12 tion of the State's policy with respect to health planning, hospital  
13 and related health care services, and all public and private institu-  
14 tions, whether State, county, municipal, incorporated or not in-  
15 corporated, serving principally as boarding, nursing or maternity  
16 homes or other homes for the sheltered care of adult persons or as  
17 facilities for the prevention, diagnosis, or treatment of human  
18 disease, pain, injury, deformity or physical condition, shall be  
19 subject to the provisions of this act.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

1 2. The following words or phrases, as used in this act, shall  
2 have the following meanings, unless the context otherwise requires:

3 a. "Medical care facility" means the facility or institution  
4 whether public or private, engaged principally in providing ser-  
5 vices for the prevention, diagnosis or treatment of human disease,  
6 pain, injury, deformity or physical condition, including, but not  
7 limited to, a general hospital, special hospital, mental hospital, pub-  
8 lic health center, diagnostic center, treatment center, rehabilitation  
9 center, extended care facility, skilled nursing home, nursing home,  
10 intermediate care facility, tuberculosis hospital, chronic disease  
11 hospital, maternity hospital, out-patient clinic, dispensary, home  
12 health care agency, boarding home or other home for the sheltered  
13 care of adult persons and bioanalytical laboratory or central ser-  
14 vices facility serving one or more such institutions.

15 b. "Health care service" means the preadmission, out-patient,  
16 in-patient and post-discharge care provided in or by a medical care  
17 facility, and such other items or services as are necessary for such  
18 care, which are provided by or under the supervision of a physician  
19 for the purpose of prevention, diagnosis or treatment of human  
20 disease, pain, injury, disability, deformity or physical condition,  
21 including, but not limited to, nursing service, home care nursing and  
22 other paramedical service, ambulance service, service provided by  
23 an intern, resident in training or physician whose compensation is  
24 provided through agreement with a medical care facility, laboratory  
25 service, medical social service, drugs, biologicals, supplies, appli-  
26 ances, equipment, bed and board, but excluding services provided  
27 by a physician in his private practice.

28 c. "Construction" means the erection, building, or substantial  
29 acquisition, alteration, reconstruction, improvement, renovation,  
30 extension or modification of a medical care facility, including its  
31 equipment, the inspection and supervision thereof; and the studies,  
32 surveys, designs, plans, working drawings, specifications, pro-  
33 cedures, and other actions necessary thereto.

34 d. "Board" means the Health Care Administration Board  
35 established pursuant to this act.

36 e. "Government agency" means a department, board, bureau,  
37 division office, agency, public benefit or other corporation, or any  
38 other unit, however described, of the State or political subdivision  
39 thereof.

40 f. "State Health Planning Council" means the existing State  
41 Health Planning Council formed under the provisions of Federal  
42 Law 89-749, as amended and supplemented.

43 g. "Comprehensive area-wide health planning agency" means an  
44 officially recognized health planning agency formed under the pro-  
45 visions of Federal Law 89-749, as amended and supplemented.

46 h. "Area planning council" means a voluntary, nonprofit  
47 organization composed of persons representative of hospitals,  
48 nursing homes, and consumers of medical care services, formed for  
49 the purpose of planning the health facilities in a definite geo-  
50 graphical area which is recognized by the commissioner through re-  
51 ferral of applications for certificate of need as provided by this  
52 act.

53 i. "Department" means the State Department of Health.

54 j. "Commissioner" means the State Commissioner of Health.

1 3. The commissioner shall recognize the State Health Planning  
2 Council, the comprehensive area-wide health planning agencies and  
3 area planning councils as the recommending agencies in carrying  
4 out the purpose of this act. The State Health Planning Council  
5 shall act as the coordinating agency for the comprehensive area-  
6 wide health planning agencies and area planning councils in all  
7 matters, including but not limited to, comprehensive studies of  
8 requirements in various areas of the State for medical care  
9 facilities.

1 4. There shall be in the State Department of Health, a Health  
2 Care Administration Board which shall consist of nine members,  
3 seven of whom shall be appointed by the Governor with the advice  
4 and consent of the Senate, and representative of health care facili-  
5 ties and services and the public at large, and two of whom shall be  
6 ex-officio members. The State Commissioner of Health and the  
7 Commissioner of Insurance or their designated representatives,  
8 shall be ex-officio voting members of the board and shall serve on  
9 the board during their respective terms of office. Of the original  
10 members appointed to the board, two shall be appointed for terms  
11 of 3 years, two for terms of 2 years, and three for terms of 1 year.  
12 Following the expiration of the initial terms, members of the board  
13 shall be appointed for terms of 4 years. Any vacancy occurring in  
14 the membership of the board shall be filled in the same manner as  
15 the original appointment, but for the unexpired term only. The  
16 board shall meet at least quarterly and at such other times as its  
17 rules may prescribe or as in its judgment, may be necessary. The  
18 appointive members of the board shall serve without compensation  
19 but shall be reimbursed for necessary expenses incurred in the per-  
20 formance of their duties.

1 5. a. The commissioner, to effectuate the provisions and purposes  
2 of this act, shall have the power to inquire into the operation of

3 medical care facilities and to conduct periodic inspections of such  
4 facilities with respect to the fitness and adequacy of the premises,  
5 equipment, personnel, rules and bylaws and the adequacy of  
6 financial resources and sources of future revenues.

7 b. The commissioner, after consultation with the board, shall  
8 adopt and amend rules and regulations in accordance with the  
9 Administrative Procedure Act P. L. 1968, c. 410 (C. 52:14B-1 et  
10 seq.) to effectuate the provisions and purposes of this act, including,  
11 but not limited to: (1) the establishment of requirements for a  
12 uniform State-wide system of reports and audit relating to the  
13 quality of health care provided, medical care facility utilization  
14 and costs; (2) certification by the department of schedules of rates,  
15 payments, reimbursement, grants and other charges for health care  
16 services as provided in section 18; and (3) standards and pro-  
17 cedures relating to the licensing of medical care facilities and the  
18 institution of additional health care services.

19 c. The commissioner may enter into contracts with any govern-  
20 ment agency, institution of higher learning, voluntary nonprofit  
21 agency, or appropriate planning agency or council; and such en-  
22 tities are authorized to enter into contracts with the commissioner  
23 to effectuate the provisions and purposes of this act.

24 d. The commissioner may provide consultation and assistance to  
25 medical care facilities in operational techniques, including but not  
26 limited to, planning, principles of management, and standards of  
27 health care services.

28 e. At the request of the commissioner, medical care facilities shall  
29 furnish to the Department of Health such reports and information  
30 as it may require to effectuate the provisions and purposes of this  
31 act, excluding confidential communications from patients.

32 f. The commissioner may institute or cause to be instituted in a  
33 court of competent jurisdiction proceedings to compel compliance  
34 with the provisions of this act or the determinations, rules, regula-  
35 tions and orders of the commissioner.

1 6. The commissioner shall designate an appropriate organiza-  
2 tional unit in the State Department of Health to carry out the pro-  
3 visions and purposes of this act, which shall be under the super-  
4 vision of a person who shall be appointed by and receive the com-  
5 pensation fixed by the commissioner, subject to appropriations  
6 made therefor.

1 7. No medical care facility shall be constructed or expanded, and  
2 no new health care services shall be instituted after the effective  
3 date of this act except upon application for and receipt of a  
4 certificate of need as provided by this act. No agency of the State

5 or of any county or municipal government shall approve any grant  
6 of funds for, or issue any license to, a medical care facility which  
7 is constructed or expanded, or which institutes a new health care  
8 service, in violation of the provisions of this act.

1 8. No certificate of need shall be issued unless the action pro-  
2 posed in the application for such certificate is necessary to provide  
3 required health care in the area to be served, can be economically  
4 accomplished and maintained, and will contribute to the orderly  
5 development of adequate and effective health care services. In  
6 making such determinations there shall be taken into consideration  
7 (a) the availability of facilities or services which may serve as  
8 alternatives or substitutes, (b) the need for special equipment and  
9 services in the area, (c) the possible economies and improvement  
10 in services to be anticipated from the operation of joint central  
11 services, (d) the adequacy of financial resources and sources of  
12 present and future revenues, (e) the availability of sufficient man-  
13 power in the several professional disciplines, and (f) such other  
14 factors as may be established by regulation.

15 In the case of an application by a medical care facility established  
16 or operated by any religious body or denomination, the needs of  
17 the members of such religious body or denomination for care and  
18 treatment in accordance with their religious or ethical convictions  
19 may be considered to be public need.

1 9. Certificates of need shall be issued by the commissioner in  
2 accordance with the provisions of this act and based upon criteria  
3 and standards therefor promulgated by the commissioner.

4 No such certificate shall be denied without the approval of the  
5 board; and no decision shall be made contrary to the recommenda-  
6 tions of the State Health Planning Council unless the council and  
7 the applicant shall have been notified by the commissioner of the  
8 reasons for such determination and shall have been granted  
9 opportunity for hearing. The department shall arrange for prompt  
10 and fair hearings on all such cases and the commissioner or his  
11 designee shall file with the board in writing his recommendations  
12 and reasons therefor. The board promptly thereafter shall make  
13 its determination.

1 10. Application for a certificate of need shall be made to the  
2 department, and shall be in such form and contain such information  
3 as the department may prescribe. The department shall charge  
4 such nonreturnable fee, not less than \$20.00 and not more than  
5 \$250.00 for the filing of an application for a certificate of need as it  
6 shall from time to time fix in rules or regulations. Upon receipt

7 of an application, copies thereof shall be referred by the department  
8 to the appropriate planning agencies or councils for review.

9 These appropriate agencies and councils shall provide adequate  
10 mechanisms for full consideration of each application submitted to  
11 them and for developing recommendations thereon. Such recom-  
12 mendations, whether favorable or unfavorable, shall be forwarded  
13 to the commissioner within 60 days of the date of referral of the  
14 application. A copy of the recommendations made shall be for-  
15 warded to the applicant.

16 Recommendations concerning certificates of need shall be  
17 governed and based upon the principles and considerations set forth  
18 in section 8 hereof.

19 No member, officer or employee of any planning body shall be  
20 subject to civil action in any court as the result of any act done or  
21 failure to act, or of any statement made or opinion given, while  
22 discharging his duties under this act as such member, officer, or  
23 employee, provided he acted in good faith with reasonable care  
24 and upon proper cause.

1 11. A certificate of need shall be valid for 1 year from the date of  
2 issue, except that the commissioner may renew the certificate for  
3 further periods where the applicant has shown to the satisfaction  
4 of the commissioner by adequate proof that substantial progress  
5 towards completion of the project has been demonstrated.

1 12. a. No medical care facility shall be operated unless it shall:  
2 (1) possess a valid license issued pursuant to this act, which license  
3 shall specify the kind or kinds of health care services the facility  
4 is authorized to provide; (2) establish and maintain a uniform  
5 system of cost accounting approved by the commissioner; (3)  
6 establish and maintain a uniform system of reports and audits  
7 meeting the requirements of the commissioner; and (4) prepare  
8 and review annually a long range plan for the provision of health  
9 care services, which plan shall be compatible with the State Health  
10 Plan established pursuant to the "Comprehensive Health Planning  
11 and Public Health Services Amendments of 1966" (Federal Law  
12 89-749) as related to medical health services, health care services,  
13 and health manpower.

14 b. (1) Application for a license for a medical care facility shall be  
15 made upon forms prescribed by the department. The department  
16 shall charge such nonrefundable fees, not less than \$50.00 and not  
17 more than \$250.00 for the filing of an application for a license and  
18 any renewal thereof, as it shall from time to time fix in rules or  
19 regulations. The application shall contain the name of the medical  
20 care facility, the kind or kinds of health care service to be provided,

21 the location and physical description of the institution, and such  
22 other information as the department may require. (2) A license  
23 shall be issued by the department upon its findings that the  
24 premises, equipment, personnel, including principals and manage-  
25 ment, finances, rules and bylaws, and standards of health care  
26 service are fit and adequate and there is reasonable assurance the  
27 medical care facility will be operated in the manner required by this  
28 act and rules and regulations thereunder.

29 c. A license issued before the effective date of this act to a  
30 medical care facility for its operation, upon the first renewal date  
31 thereafter, may be extended for a 1 year period of time, provided  
32 the facility then meets the requirements for licensure at the time  
33 said license was issued and submits an acceptable plan to meet  
34 current requirements at the end of said period of time.

1 13. In addition to authority granted to the department by this act  
2 or any other law, the department after serving the licensee with  
3 specific charges in writing, may assess penalties and collect the  
4 same within the limitations imposed by this act, deny, place on  
5 probationary or provisional license, revoke or suspend any and all  
6 licenses granted under authority of this act to any person, firm,  
7 partnership, corporation or association violating or failing to  
8 comply with the provisions of this act, or the rules and regulations  
9 promulgated hereunder.

10 Notice of the assessment of penalties, revocation, suspension, the  
11 placing on probationary or provisional license or denial of a license  
12 together with a specification of charges shall be served on the  
13 applicant or licensee, personally or sent by certified mail to the  
14 address of record and the notice shall set forth the particular  
15 reasons for the assessment, denial, suspension, the placing on  
16 probationary or provisional license or revocation of the license.  
17 Such assessment, denial, suspension, the placing on probationary  
18 or provisional license, or revocation shall become effective 30 days  
19 after mailing, unless the applicant or licensee, within such 30-day  
20 period shall meet the requirements of the department or shall file  
21 with the department a written answer to the charges and give  
22 written notice to the department of its desire for a hearing in which  
23 case the assessment, denial, suspension, the placing on probationary  
24 or provisional license, or revocation may be held in abeyance until  
25 the hearing has been concluded and a final decision rendered.

26 The department shall afford the licensee an opportunity for a  
27 prompt hearing on the question of the assessment of penalties, the  
28 issuance, suspension or the placing on a probationary or provisional

29 license, or revocation of the license. The procedure governing such  
30 hearings shall be in accordance with the rules and regulations of the  
31 department. Either party may be represented by counsel of his own  
32 choosing, and shall have the right to subpoena witnesses and to  
33 compel their attendance on forms furnished by the department.

34 The commissioner shall arrange for prompt and fair hearings on  
35 all such cases, render written decisions stating conclusions and  
36 reasons therefor upon each matter so heard, and is empowered to  
37 enter orders of denial, suspension, placing on probationary or pro-  
38 visional license or revocation consistent with the circumstances in  
39 each case, and may assess penalties and collect the same within the  
40 limitations imposed by this act.

1 14. Any person, firm, partnership, corporation or association  
2 who shall operate or conduct a medical care facility without first  
3 obtaining the license required by this act, or who shall operate such  
4 medical care facility after revocation or suspension of license, shall  
5 be liable to a penalty of \$50.00 for each day of operation in violation  
6 hereof for the first offense and for any subsequent offense shall be  
7 liable to a penalty of \$100.00 for each day of operation in violation  
8 hereof. Any person, firm, partnership, corporation or association  
9 who shall be found guilty of violating any rule or regulation  
10 adopted in accordance with this act as the same pertains to the care  
11 of patients and neglects to rectify same within 7 days after receiv-  
12 ing notice from the department of such violation or who neglects to  
13 commence, within 7 days, such repairs to his licensed establishment  
14 after receiving notice from the department that hazardous or un-  
15 safe condition exists in or upon the structure in which the licensed  
16 premises is maintained shall be subject to a penalty of not less than  
17 \$10.00 or more than \$100.00 for each day that he is in violation of  
18 such rule or regulation. If, within 1 year after such violation such  
19 person, firm, partnership, corporation or association is found guilty  
20 of the same violation such penalties as hereinbefore set forth shall  
21 be doubled, and if there be a third violation within such time, such  
22 penalties shall be tripled. In addition thereto the department may,  
23 in its discretion, suspend the license for such time as it may deem  
24 proper.

25 Any person, firm, partnership, corporation or association who  
26 shall, except in cases of an emergency, maintain more patients in his  
27 premises than he is licensed so to do, shall be subject to a penalty  
28 in an amount equal to the charge collected from such patient or  
29 patients plus \$25.00 for each extra patient so maintained.

1 15. Whenever a boarding home for sheltered care, boarding

2 house or rest home or facility or institution of like character, not  
3 licensed hereunder, by public or private advertising or by other  
4 means holds out to the public that it is equipped to provide post-  
5 operative or convalescent care for persons mentally ill or mentally  
6 retarded or who are suffering or recovering from illness or injury,  
7 or who are chronically ill, or whenever there is reason to believe  
8 that any such facility or institution, not licensed hereunder, is  
9 violating any of the provisions of this act, then, and in such case,  
10 the department shall be permitted reasonable inspection of such  
11 premises for the purpose of ascertaining whether there is any viola-  
12 tion of the provisions hereof. If any such boarding home for  
13 sheltered care, boarding house, rest home or other facility or insti-  
14 tution shall operate as a private mental hospital, convalescent  
15 home, private nursing home or private hospital in violation of the  
16-18 provisions of this act, then the same shall be liable to the penalties  
19 which are prescribed and capable of being assessed against medical  
20 care facilities pursuant to this act.

21 Any person, firm, association, partnership or corporation, not  
22 licensed hereunder, but who holds out to the public by advertising  
23 or other means that the medical and nursing care contemplated by  
24 this act will be furnished to persons seeking admission as patients,  
25 shall cease and desist from such practice and shall be liable to a  
26 penalty of \$100.00 for the first offense and \$500.00 for each subse-  
27 quent offense, such penalty to be recovered as provided for herein.

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

6 The commissioner may, in his discretion and subject to rules  
7 and regulations, accept from any licensee an offer in compromise in  
8 such amount as may in the discretion of the director be proper  
9 under the circumstances in lieu of any suspension of any license by  
10 the commissioner. Any sums of money so collected by the commis-  
11 sioner shall be paid forthwith into the State Treasury for the  
12 general purposes of the State. In no case shall the penalty be com-  
13 promised for a sum less than \$250.00 for the first offense and \$500.00  
14 for the second and each subsequent offense; provided however,  
15 that any penalty of less than \$250.00 or \$500.00, as the case may be,  
16 may be compromised for a lesser sum.

17 The department may maintain an action in the name of the State  
18 to enjoin any person, firm, partnership, association or corporation  
19 from continuing to conduct, manage or operate a medical care

20 facility without a license, or after suspension or revocation of  
21 license, or in violation of rules and regulations promulgated here-  
22 under.

1 17. All orders or determinations under this act shall be subject  
2 to review by a court of competent jurisdiction in accordance with  
3 the Rules of Court.

1 18. a. No government agency and no hospital service corporation  
2 organized under the laws of the State shall purchase, pay for or  
3 make reimbursement or grant-in-aid for any health care service  
4 provided by a medical care facility unless at the time the service  
5 was provided, the medical care facility possessed a valid license or  
6 was otherwise authorized to provide such service.

7 b. Payment by government agencies for health care services pro-  
8 vided by a medical care facility shall be at rates established by the  
9 commissioner, based on elements of costs approved by him.

10 c. The Commissioner of Health in consultation with the Com-  
11 missioner of Insurance shall determine and certify the costs of pro-  
12 viding health care services, as reported by medical care facilities,  
13 which are derived in accordance with a uniform system of cost  
14 accounting approved by the Commissioner of Health. Said certifi-  
15 cation shall specify the elements and details of costs taken into  
16 consideration.

17 d. Payment by hospital service corporations, organized under  
18 the laws of this State, for health care services provided by a medical  
19 care facility shall be at rates approved as to reasonableness by the  
20 Commissioner of Insurance.

1 19. All of the functions, powers and duties of the State Board of  
2 Control, the Commissioner of Institutions and Agencies and the  
3 Department of Institutions and Agencies and its Hospital Licens-  
4 ing Board related to administration of laws governing and con-  
5 cerning boarding homes for the sheltered, care of children and adult  
6 persons, private mental hospitals, convalescent homes, private  
7 nursing homes and private hospitals, and relating to the planning,  
8 construction and licensing of medical care facilities as defined in  
9 this act and the power to receive, allocate, expend, and authorize the  
10 expenditure of Federal moneys available for medical care facility  
11 construction and renovation are hereby transferred and assigned  
12 to, assumed by and devolved upon the State Department of Health.  
13 To effectuate such transfer there shall also be transferred such  
14 officers and employees as are necessary, all appropriations or re-  
15 appropriations, to the extent of remaining unexpended or unencum-  
16 bered balances thereof, whether allocated or unallocated and  
17 whether obligated or unobligated, and all necessary books, papers,

18 records and property. All rules, regulations, acts, determinations  
19 and decisions in force at the time of such transfer and proceedings  
20 or other such matters undertaken or commenced by or before the  
21 Department of Institutions and Agencies or the Hospital Licensing  
22 Board pertaining to the planning, construction, licensing and oper-  
23 ation of such medical care facilities, and the administration of  
24 Federal moneys for medical care facility construction, and renova-  
25 tion pending at the time of such transfer, shall continue in force  
26 and effect until duly modified, abrogated or completed by the De-  
27 partment of Health.

1 20. Employees of the present Bureau of Community Institutions  
2 in the Department of Institutions and Agencies responsible for  
3 administration of laws governing and concerning boarding homes  
4 for the sheltered care of adult persons, private mental hospitals,  
5 convalescent homes, private nursing homes and private hospitals  
6 are hereby transferred to the State Department of Health. Persons  
7 so transferred shall be assigned such duties as the State Commis-  
8 sioner of Health shall determine.

1 21. All functions, powers, duties, records, and property of the  
2 Department of Institutions and Agencies, and personnel of the  
3 Bureau of Medical Facilities Construction and Planning relating  
4 to receipt of money from the Federal Government for the purpose  
5 of making payments for construction of hospitals, including public  
6 health centers and related facilities within the State, and for an  
7 inventory and survey in connection therewith under or pursuant  
8 to any Federal law providing for the payment of such moneys as  
9 established and authorized by the provisions of c. 83, P. L. 1947 (C.  
10 30:1-19 et seq.), are hereby transferred to the State Department of  
11 Health.

1 22. The Hospital Licensing Board created pursuant to P. L. 1947,  
2 c. 340, s. 7 (C. 30:11-6) is hereby abolished. Upon the establishment  
3 of the Health Care Administration Board, all the functions, powers  
4 and duties of the Hospital Licensing Board, transferred to and  
5 vested in the Department of Health pursuant to section 19 of this  
6 act, shall be assumed by and devolved upon the Department of  
7 Health, to be exercised by the said Health Care Administration  
8 Board. Pending the appointment of members, establishment and  
9 convening of said Health Care Administration Board, all the func-  
10 tions, powers and duties thereof shall be exercised by the  
11 department.

1 23. With respect to the functions, powers and duties of the State  
2 Board of Control, the Commissioner of Institutions and Agencies

3 and the Department of Institutions and Agencies, which are herein  
4 transferred and vested in the Department of Health, whenever in  
5 any law, rule, regulation, contract, document or otherwise, reference  
6 is made to the State Board of Control or the Department of In-  
7 stitutions and Agencies the same shall be deemed to mean and  
8 refer to the Department of Health, and reference to the Commis-  
9 sioner of Institutions and Agencies in connection therewith shall be  
10 deemed to mean and refer to the Commissioner of Health.

1 24. If any clause, sentence, paragraph, subsection or section of  
2 this act shall be adjudged by any court of competent jurisdiction to  
3 be invalid, the judgment shall not affect, impair or invalidate the  
4 remainder thereof, but shall be confined in its operation to the  
5 clause, sentence, paragraph, subsection or section thereof directly  
6 involved in the controversy in which this judgment shall have been  
7 rendered.

1 25. Section 1 of c. 366, P. L. 1938 (C. 17:48-1) is amended to  
2 read as follows:

3 1. A hospital service corporation is hereby declared to be any  
4 corporation organized, without capital stock and not for profit, for  
5 the purpose of establishing, maintaining and operating a nonprofit  
6 hospital service plan. A hospital service plan is hereby defined as a  
7 plan whereby [hospital service is] *health care services* are pro-  
8 vided by a hospital service corporation or by a [hospital or institu-  
9 tion] *medical care facility* with which the corporation has a con-  
10 tract for such [hospital service] *health care services* to persons  
11 who become subscribers under contracts with the corporation.  
12 [Hospital service] *Health care services* provided by a hospital  
13 service corporation shall [consist of hospital] *include health care*  
14 provided (a) through a [hospital or institution] *medical care*  
15 *facility* which is maintained by a State or any of its political sub-  
16 divisions; (b) through a [hospital or institution] *medical care*  
17 *facility* licensed by the [Department of Institutions and Agencies]  
18 *Department of Health*; (c) through such other [hospitals and in-  
19 stitutions,] *medical care facilities* as shall have been designated by  
20 the [Department of Institutions and Agencies] *Department of*  
21 *Health* for [hospital care] *health care services*; (d) through  
22 [hospitals and institutions,] *medical care facilities* located in other  
23 states, which are subject to the supervision of such other States  
24 provided that such last mentioned [hospitals and institutions,]  
25 *medical care facilities*, if they were located in this State, would be  
26 eligible to be licensed or designated by the [Department of Institu-  
27 tions and Agencies] *Department of Health*; (e) through nonprofit

28 hospital service plans of other States approved by the Commis-  
29 sioner of **[Banking and]** Insurance:

1 26. Section 7 of c. 366, P. L. 1938 (C. 17:48-7) is amended to read  
2 as follows:

3 7. Any hospital service corporation may enter into contracts *with*  
4 *medical care facilities* for the rendering of **[hospital]** *health care*  
5 services to any of its subscribers only with **[hospitals and institu-**  
6 **tions referred to in section 1 of this act]** *licensed medical care*  
7 *facilities*.

8 **[Payment]** *Rates of payment* by such hospital service corpora-  
9 tion pursuant to written contract with a hospital or institution for  
10 the services contracted thereunder **[shall not for a fiscal period be**  
11 **in excess of the aggregate amount that would be obtained by apply-**  
12 **ing the particular hospital's or institution's regular charges to the**  
13 **general public for the same services to all such cases for which pay-**  
14 **ment is made for such fiscal period by such hospital service corpora-**  
15 **tion to such hospital or institution and]** may be *in the form of*  
16 **[made on a basis of]** a level per diem amount established for the  
17 particular hospital or institution for each day of **[hospital]** *health*  
18 *care services and* **[A schedule of all rates of payments to hospitals**  
19 **and institutions by such hospital service corporations pursuant to**  
20 **such contracts shall be filed with the Commissioner of Banking and**  
21 **Insurance. If the commissioner shall at any time notify the corpora-**  
22 **tion filing the same of his disapproval of any such rate of payment,**  
23 **as being excessive or inadequate, it shall be unlawful thereafter for**  
24 **payments to be made under such contract. Such disapproval of the**  
25 **commissioner shall be subject to review by the Superior Court in a**  
26 **proceeding in lieu of prerogative writ.]** *prior to payment, shall be*  
27 *approved as to reasonableness by the Commissioner of Insurance*  
28 *following certification made pursuant to section 18 of the Medical*  
29 *Care Facilities Planning Act (P. L. 1971, c. . . .)*. The maximum  
30 rate of payment to eligible hospitals and institutions not under  
31 contract with such hospital service corporation shall not exceed the  
32 **[above prescribed limitations]** *particular hospital's or institution's*  
33 *regular charges to the general public for the same services and*  
34 shall be set forth in the certificate issued by such hospital service  
35 corporation to any subscriber. The basis and extent of payment,  
36 if any, by such hospital service corporation under agreement with  
37 nonprofit hospital service plans of other states shall be subject to  
38 the approval of the Commissioner of **[Banking and]** Insurance.

1 27. Nothing in this act shall be construed to deprive any person of  
2 any tenure rights or of any right or protection provided him by

3 Title 11 of the Revised Statutes, Civil Service, or under any pension  
4 law or retirement system.

1 28. This act shall be known and may be cited as the "Medical  
2 Care Facilities Planning Act."

1 29. This act shall take effect at the beginning of the eighth  
2 biweekly pay period following enactment except that all arrange-  
3 ments and actions necessary and appropriate to enable this act to  
4 become fully operative on such date shall be made as promptly as  
5 possible as though this act were effective and operative  
6 immediately.

*S 2078 (1971)*

#### STATEMENT

Public concern over the spiraling costs of institutional health care has resulted in demands for increased governmental scrutiny in the form of added regulation over the construction of health care facilities, the provision of services and operating costs of health care institutions. While continued leadership of the voluntary sector is vital in protecting quality of care and encouraging innovation in medical technology, the need for a legislative base to oversee and protect against unnecessary duplication of facilities and services and to moderate operating costs has been generally recognized.

This bill responds to the findings and recommendations expressed by the public defender in the 1969 rate application of Blue Cross in New Jersey and its predecessor cost study agencies including the Joint Legislative Committee constituted by both Houses of the Legislature in 1960 and the recent report of the Governor's Management Commission. It follows in the pattern already enacted in several states, and would provide governmental supervision of the critical areas of facilities planning and cost regulation to assure New Jersey citizens that institutional health care costs are in proper relationship to the need for quality health care.

In the matter of licensing institutions the bill would utilize the already established planning system. The bill would also integrate and supplement the present regulatory authority of the Department of Institutions and Agencies, the State Health Department and the Commissioner of Insurance over the matters of licensure, quality standards and rates to be paid by Blue Cross subscribers and payments to hospitals, by authorizing the State Department of Health to establish uniform accounting, reporting and audit procedures applicable to health care institutions.

SENATE COMMITTEE AMENDMENTS TO  
SENATE, No. 2088

STATE OF NEW JERSEY

ADOPTED APRIL 1, 1971

- Amend page 1, Title, line 1, omit "medical", insert "health".
- Amend page 1, section 1, line 2, omit "higest", insert "highest".
- Amend page 2, section 2, line 3, omit "Medical", insert "Health".
- Amend page 2, section 2, line 5, omit " the prevention", insert "health maintenance organizations".
- Amend page 2, section 2, line 14, after "institutions", insert "but excluding institutions that provide healing solely by prayer".
- Amend page 2, section 2, line 16, omit "medical", insert "health".
- Amend page 2, section 2, line 19, omit "prevention", insert "health maintenance organizations".
- Amend page 2, section 2, line 24, omit "medical", insert "health".
- Amend page 2, section 2, line 27, after "practice", insert "or by practitioners of healing solely by prayer".
- Amend page 2, section 2, line 30, omit "medical", insert "health".
- Amend page 3, section 3, line 8, omit "medical", insert "health".
- Amend page 3, section 4, line 2, omit "nine", insert "13".
- Amend page 3, section 4, line 3, omit "seven", insert "11".
- Amend page 3, section 4, line 4, after "representative of", insert "medical and".
- Amend page 3, section 4, line 5, after "services", insert ", labor, industry".
- Amend page 3, section 4, line 10, omit "two", insert "four".
- Amend page 3, section 4, line 11, omit "two", insert "four".
- Amend page 3, section 5, line 2, after "into", insert "health care services and".
- Amend page 4, section 5, line 3, omit "medical", insert "health".
- Amend page 4, section 5, line 7, omit "after consultation".

Amend page 4, section 5, line 17, omit "medical", insert "health".

Amend page 4, section 5, line 25, omit "medical", insert "health".

Amend page 4, section 5, line 28, omit "medical", insert "health".

Amend page 4, section 7, line 1, omit "medical", insert "health".

Amend page 5, section 7, line 6, omit "medical", insert "health".

Amend page 5, section 8, line 14, after "regulation.", insert a new sentence "The commissioner shall cause appropriate surveys and studies to be made concerning the need for health care facilities and keep current records and statistics thereon by designated areas or regions of the State."

Amend page 5, section 8, lines 15 to 19, omit in their entirety.

Amend page 5, section 9, line 3, after "commissioner.", insert a new sentence "The commissioner shall establish minimum needs for health care facilities in each area or region, and any applicant requesting a certificate of need who falls within such minimum needs, and who otherwise complies in all respects with this act and the criteria and standards established pursuant thereto shall be issued such certificate."

Amend page 5, section 9, line 5, after "board", insert "and prior to the determination by the board, the applicant shall have been granted opportunity for hearing".

Amend page 5, section 9, lines 7 and 8, omit "shall have been notified by the commissioner of the reasons for such determination and".

Amend page 5, section 9, line 9 and 10, omit "for prompt and", insert "within 60 days for".

Amend page 5, section 9, line 11, omit "file with", insert "furnish".

Amend page 5, section 9, line 11, after "board", insert ", the council and the applicant".

Amend page 5, section 9, line 12, omit "promptly thereafter", insert "within 30 days".

Amend page 5, section 10, line 4, omit "such", insert "a".

Amend page 6, section 12, line 1, omit "medical", insert "health".

Amend page 6, section 12, line 14, omit "medical", insert "health".

Amend page 6, section 12, line 19, omit "medical", insert "health".

Amend page 7, section 12, line 27, omit "medical", insert "health".

Amend page 7, section 12, line 30, omit "medical", insert "health".

Amend page 8, section 14, line 2, omit "medical", insert "health".

Amend page 8, section 14, line 4, omit "medical", insert "health".

Amend page 9, section 15, line 19, omit "medical", insert "health".

Amend page 9, section 16, line 8, omit "the discretion of the director", insert "his judgment".

Amend page 9, section 16, line 19, omit "medical", insert "health".

Amend page 10, section 18, line 4, omit "medical", insert "health".

Amend page 10, section 18, line 5, omit "medical", insert "health".

Amend page 10, section 18, line 8, omit “medical”, insert “health”.  
Amend page 10, section 18, line 12, omit “medical”, insert “health”.  
Amend page 10, section 18, line 18, omit “medical”, insert “health”.  
Amend page 10, section 19, line 5, omit “an”, insert “and”.  
Amend page 10, section 19, line 8, omit “medical”, insert “health”.  
Amend page 10, section 19, line 10, omit “medical”, insert “health”.  
Amend page 11, section 19, line 23, omit “medical”, insert “health”.  
Amend page 11, section 19, line 24, omit “medical”, insert “health”.  
Amend page 12, section 25, line 9, omit “medical”, insert “health”.  
Amend page 12, section 25, line 14, omit “medical”, insert “health”.  
Amend page 12, section 25, line 16, omit “medical”, insert “health”.  
Amend page 12, section 25, line 19, omit “medical”, insert “health”.  
Amend page 12, section 25, line 22, omit “medical”, insert “health”.  
Amend page 12, section 25, line 25, omit “medical”, insert “health”.  
Amend page 13, section 26, line 4, omit “medical”, insert “health”.  
Amend page 13, section 26, line 6, omit “medical”, insert “health”.  
Amend page 13, section 26, line 28, omit “Medical”, insert “Health”.  
Amend page 14, section 28, line 1, omit “Medical”, insert “Health”.

SENATE AMENDMENT TO  
**SENATE, No. 2088**  
[OFFICIAL COPY REPRINT]

---

**STATE OF NEW JERSEY**

---

ADOPTED APRIL 5, 1971

Amend page 11, section 18, line 20, after "Insurance", insert "with the approval of the Commissioner of Health. In establishing such rates, the commissioners shall take into consideration the total costs of the health care facility."

[OFFICIAL COPY REPRINT]

SENATE, No. 2088

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1971

By Senators DUMONT, MARAZITI, DICKINSON, WALLWORK  
and HAGEDORN

Referred to Committee on Institutions and Welfare

AN ACT concerning the licensing and regulation of **\*[medical]\***  
**\*health\*** care facilities, transferring certain powers and duties  
from the Department of Institutions and Agencies to the State  
Department of Health, and to amend "An act concerning hospital  
service corporations and regulating the establishment, mainte-  
nance and operation of hospital service plans, and supplementing  
Title 17 of the Revised Statutes by adding thereto a new chapter  
entitled 'Hospital Service Corporations,' " approved June 14,  
1938 (P. L. 1938, c. 366).

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

1 1. It is hereby declared to be the public policy of the State that  
2 hospital and related health care services of the **\*[highest]\*** **\*highest\***  
3 quality, of demonstrated need, efficiently provided and properly  
4 utilized at a reasonable cost are of vital concern to the public health.  
5 In order to provide for the protection and promotion of the health of  
6 the inhabitants of the State, the State Department of Health, which  
7 has been designated as the sole agency in this State for comprehen-  
8 sive health planning under the "Comprehensive Health Planning  
9 and Public Health Services Amendments of 1966" (Federal Law  
10 89-749), as amended and supplemented, shall have the central,  
11 comprehensive responsibility for the development and administra-  
12 tion of the State's policy with respect to health planning, hospital  
13 and related health care services, and all public and private institu-  
14 tions, whether State, county, municipal, incorporated or not in-  
15 corporated, serving principally as boarding, nursing or maternity  
16 homes or other homes for the sheltered care of adult persons or as  
17 facilities for the prevention, diagnosis, or treatment of human  
18 disease, pain, injury, deformity or physical condition, shall be  
19 subject to the provisions of this act.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

1 2. The following words or phrases, as used in this act, shall  
2 have the following meanings, unless the context otherwise requires:

3 a. “**Medical**” *Health* care facility” means the facility or in-  
4 stitution whether public or private, engaged principally in providing  
5 services for **the prevention** *health maintenance organizations*,  
6 diagnosis or treatment of human disease, pain, injury, deformity or  
7 physical condition, including, but not limited to, a general hospital,  
8 special hospital, mental hospital, public health center, diagnostic  
9 center, treatment center, rehabilitation center, extended care  
10 facility, skilled nursing home, nursing home, intermediate care  
11 facility, tuberculosis hospital, chronic disease hospital, maternity  
12 hospital, out-patient clinic, dispensary, home health care agency,  
13 boarding home or other home for the sheltered care of adult persons  
14 and bioanalytical laboratory or central services facility serving one  
15 or more such institutions *but excluding institutions that provide*  
16 *healing solely by prayer*.”

17 b. “Health care service” means the preadmission, out-patient,  
18 in-patient and post-discharge care provided in or by a **medical**  
19 *health* care facility, and such other items or services as are  
20 necessary for such care, which are provided by or under the super-  
21 vision of a physician for the purpose of **prevention** *health*  
22 *maintenance organizations*, diagnosis or treatment of human  
23 disease, pain, injury, disability, deformity or physical condition,  
24 including, but not limited to, nursing service, home care nursing and  
25 other paramedical service, ambulance service, service provided by  
26 an intern, resident in training or physician whose compensation is  
27 provided through agreement with a **medical** *health* care  
28 facility, laboratory service, medical social service, drugs, biologicals,  
29 supplies, appliances, equipment, bed and board, but excluding  
30 services provided by a physician in his private practice *or by*  
31 *practitioners of healing solely by prayer*.”

32 c. “Construction” means the erection, building, or substantial  
33 acquisition, alteration, reconstruction, improvement, renovation,  
33A extension or modification of a **medical** *health* care facility,  
33B including its equipment, the inspection and supervision thereof; and  
33C the studies, surveys, designs, plans, working drawings, specifica-  
33D tions, procedures, and other actions necessary thereto.

34 d. “Board” means the Health Care Administration Board  
35 established pursuant to this act.

36 e. “Government agency” means a department, board, bureau,  
37 division office, agency, public benefit or other corporation, or any  
38 other unit, however described, of the State or political subdivision  
39 thereof.

40 f. "State Health Planning Council" means the existing State  
41 Health Planning Council formed under the provisions of Federal  
42 Law 89-749, as amended and supplemented.

43 g. "Comprehensive area-wide health planning agency" means an  
44 officially recognized health planning agency formed under the pro-  
45 visions of Federal Law 89-749, as amended and supplemented.

46 h. "Area planning council" means a voluntary, nonprofit  
47 organization composed of persons representative of hospitals,  
48 nursing homes, and consumers of medical care services, formed for  
49 the purpose of planning the health facilities in a definite geo-  
50 graphical area which is recognized by the commissioner through re-  
51 ferral of applications for certificate of need as provided by this  
52 act.

53 i. "Department" means the State Department of Health.

54 j. "Commissioner" means the State Commissioner of Health.

1 3. The commissioner shall recognize the State Health Planning  
2 Council, the comprehensive area-wide health planning agencies and  
3 area planning councils as the recommending agencies in carrying  
4 out the purpose of this act. The State Health Planning Council  
5 shall act as the coordinating agency for the comprehensive area-  
6 wide health planning agencies and area planning councils in all  
7 matters, including but not limited to, comprehensive studies of  
8 requirements in various areas of the State for **\*[medical]\*** *\*health\**  
9 care facilities.

1 4. There shall be in the State Department of Health, a Health  
2 Care Administration Board which shall consist of **\*[nine]\*** *\*13\**  
3 members, **\*[seven]\*** *\*11\** of whom shall be appointed by the  
4 Governor with the advice and consent of the Senate, and representa-  
5 tive of *\*medical and\** health care facilities and services\*, *labor,*  
5A *industry\** and the public at large, and two of whom shall be  
6 ex-officio members. The State Commissioner of Health and the  
7 Commissioner of Insurance or their designated representatives,  
8 shall be ex-officio voting members of the board and shall serve on  
9 the board during their respective terms of office. Of the original  
10 members appointed to the board, **\*[two]\*** *\*four\** shall be appointed  
11 for terms of 3 years, **\*[two]\*** *\*four\** for terms of 2 years, and three  
12 for terms of 1 year. Following the expiration of the initial terms,  
13 members of the board shall be appointed for terms of 4 years. Any  
14 vacancy occurring in the membership of the board shall be filled in  
15 the same manner as the original appointment, but for the unexpired  
16 term only. The board shall meet at least quarterly and at such other  
17 times as its rules may prescribe or as in its judgment, may be ne-  
18 cessary. The appointive members of the board shall serve without

19 compensation but shall be reimbursed for necessary expenses in-  
20 curred in the performance of their duties.

1 5. a. The commissioner, to effectuate the provisions and purposes  
2 of this act, shall have the power to inquire into *\*health care services*  
3 *and\** the operation of **\*[medical]\*** *\*health\** care facilities and to  
4 conduct periodic inspections of such facilities with respect to the  
5 fitness and adequacy of the premises, equipment, personnel, rules  
6 and bylaws and the adequacy of financial resources and sources of  
6A future revenues.

7 b. The commissioner, **\*[after consultation]\*** with *\*the approval*  
8 *of\** the board, shall adopt and amend rules and regulations in ac-  
9 cordance with the Administrative Procedure Act P. L. 1968, c. 410  
10 (C. 52:14B-1 et seq.) to effectuate the provisions and purposes of  
11 this act, including but not limited to: (1) the establishment of re-  
12 quirements for a uniform State-wide system of reports and audit  
13 relating to the quality of health care provided, **\*[medical]\*** *\*health\**  
14 care facility utilization and costs; (2) certification by the department  
15 of schedules of rates, payments, reimbursement, grants and other  
16 charges for health care services as provided in section 18; and (3)  
17 standards and procedures relating to the licensing of **\*[medical]\***  
18 *\*health\** care facilities and the institution of additional health care  
18A services.

19 c. The commissioner may enter into contracts with any govern-  
20 ment agency, institution of higher learning, voluntary nonprofit  
21 agency, or appropriate planning agency or council; and such en-  
22 tities are authorized to enter into contracts with the commissioner  
23 to effectuate the provisions and purposes of this act.

24 d. The commissioner may provide consultation and assistance to  
25 **\*[medical]\*** *\*health\** care facilities in operational techniques, in-  
26 cluding but not limited to, planning, principles of management, and  
27 standards of health care services.

28 e. At the request of the commissioner, **\*[medical]\*** *\*health\** care  
29 facilities shall furnish to the Department of Health such reports and  
30 information as it may require to effectuate the provisions and pur-  
31 poses of this act, excluding confidential communications from  
31A patients.

32 f. The commissioner may institute or cause to be instituted in a  
33 court of competent jurisdiction proceedings to compel compliance  
34 with the provisions of this act or the determinations, rules, regula-  
35 tions and orders of the commissioner.

1 6. The commissioner shall designate an appropriate organiza-  
2 tional unit in the State Department of Health to carry out the pro-

3 visions and purposes of this act, which shall be under the super-  
 4 vision of a person who shall be appointed by and receive the com-  
 5 pensation fixed by the commissioner, subject to appropriations  
 6 made therefor.

1 7. No **\*[medical]\*** *\*health\** care facility shall be constructed or  
 2 expanded, and no new health care services shall be instituted after  
 3 the effective date of this act except upon application for and receipt  
 4 of a certificate of need as provided by this act. No agency of the State  
 5 or of any county or municipal government shall approve any grant  
 6 of funds for, or issue any license to, a **\*[medical]\*** *\*health\** care  
 7 facility which is constructed or expanded, or which institutes a new  
 8 health care service, in violation of the provisions of this act.

1 8. No certificate of need shall be issued unless the action pro-  
 2 posed in the application for such certificate is necessary to provide  
 3 required health care in the area to be served, can be economically  
 4 accomplished and maintained, and will contribute to the orderly  
 5 development of adequate and effective health care services. In  
 6 making such determinations there shall be taken into consideration  
 7 (a) the availability of facilities or services which may serve as  
 8 alternatives or substitutes, (b) the need for special equipment and  
 9 services in the area, (c) the possible economies and improvement  
 10 in services to be anticipated from the operation of joint central  
 11 services, (d) the adequacy of financial resources and sources of  
 12 present and future revenues, (e) the availability of sufficient man-  
 13 power in the several professional disciplines, and (f) such other  
 14 factors as may be established by regulation. *\*The commissioner*  
 14A *shall cause appropriate surveys and studies to be made concerning*  
 14B *the need for health care facilities and keep current records and*  
 14C *statistics thereon by designated areas or regions of the State.\**

15 **\*[In the case of an application by a medical care facility estab-**  
 16 **lished or operated by any religious body or denomination, the needs**  
 17 **of the members of such religious body or denomination for care and**  
 18 **treatment in accordance with their religious or ethical convictions**  
 19 **may be considered to be public need.]\***

1 9. Certificates of need shall be issued by the commissioner in  
 2 accordance with the provisions of this act and based upon criteria  
 3 and standards therefor promulgated by the commissioner. *\*The*  
 3A *commissioner shall establish minimum needs for health care facili-*  
 3B *ties in each area or region, and any applicant requesting a certificate*  
 3C *of need who falls within such minimum needs, and who otherwise*  
 3D *complies in all respects with this act and the criteria and standards*  
 3E *established pursuant thereto shall be issued such certificate.\**

4 No such certificate shall be denied without the approval of the  
5 board *\*and prior to the determination by the board, the applicant*  
6 *shall have been granted opportunity for hearing\**; and no decision  
7 shall be made contrary to the recommendations of the State Health  
8 Planning Council unless the council and the applicant *\*[shall have*  
9 *been notified by the commissioner of the reasons for such determina-*  
10 *tion and]\* shall have been granted opportunity for hearing. The*  
11 *department shall arrange \*[for prompt and]\* \*within 60 days for\**  
12 *fair hearings on all such cases and the commissioner or his designee*  
13 *shall \*[file with]\* \*furnish\* the board\*, the council and the appli-*  
14 *cant\* in writing his recommendations and reasons therefor. The*  
15 *board \*[promptly thereafter]\* \*within 30 days\* shall make its*  
16 *determination.*

1 10. Application for a certificate of need shall be made to the  
2 department, and shall be in such form and contain such information  
3 as the department may prescribe. The department shall charge  
4 *\*[such]\* \*a\* nonreturnable fee, not less than \$20.00 and not more*  
5 *than \$250.00 for the filing of an application for a certificate of need*  
6 *as it shall from time to time fix in rules or regulations. Upon receipt*  
7 *of an application, copies thereof shall be referred by the department*  
8 *to the appropriate planning agencies or councils for review.*

9 These appropriate agencies and councils shall provide adequate  
10 mechanisms for full consideration of each application submitted to  
11 them and for developing recommendations thereon. Such recom-  
12 mendations, whether favorable or unfavorable, shall be forwarded  
13 to the commissioner within 60 days of the date of referral of the  
14 application. A copy of the recommendations made shall be for-  
15 warded to the applicant.

16 Recommendations concerning certificates of need shall be  
17 governed and based upon the principles and considerations set forth  
18 in section 8 hereof.

19 No member, officer or employee of any planning body shall be  
20 subject to civil action in any court as the result of any act done or  
21 failure to act, or of any statement made or opinion given, while  
22 discharging his duties under this act as such member, officer, or  
23 employee, provided he acted in good faith with reasonable care  
24 and upon proper cause.

1 11. A certificate of need shall be valid for 1 year from the date of  
2 issue, except that the commissioner may renew the certificate for  
3 further periods where the applicant has shown to the satisfaction  
4 of the commissioner by adequate proof that substantial progress  
5 towards completion of the project has been demonstrated.

1 12. a. No **\*[medical]\*** *\*health\** care facility shall be operated  
2 unless it shall: (1) possess a valid license issued pursuant to this act,  
3 which license shall specify the kind or kinds of health care services  
4 the facility is authorized to provide; (2) establish and maintain a  
5 uniform system of cost accounting approved by the commissioner;  
6 (3) establish and maintain a uniform system of reports and audits  
7 meeting the requirements of the commissioner; and (4) prepare  
8 and review annually a long range plan for the provision of health  
9 care services, which plan shall be compatible with the State Health  
10 Plan established pursuant to the "Comprehensive Health Planning  
11 and Public Health Services Amendments of 1966" (Federal Law  
12 89-749) as related to medical health services, health care services,  
13 and health manpower.

14 b. (1) Application for a license for a **\*[medical]\*** *\*health\** care  
15 facility shall be made upon forms prescribed by the department. The  
16 department shall charge such nonrefundable fees, not less than  
17 \$50.00 and not more than \$250.00 for the filing of an application for a  
18 license and any renewal thereof, as it shall from time to time fix in  
19 rules or regulations. The application shall contain the name of the  
20 **\*[medical]\*** *\*health\** care facility, the kind or kinds of health care  
21 service to be provided, the location and physical description of the  
22 institution, and such other information as the department may re-  
23 quire. (2) A license shall be issued by the department upon its  
24 findings that the premises, equipment, personnel, including princi-  
25 pals and management, finances, rules and bylaws, and standards of  
26 health care service are fit and adequate and there is reasonable  
27 assurance the **\*[medical]\*** *\*health\** care facility will be operated in  
28 the manner required by this act and rules and regulations there-  
28A under.

29 c. A license issued before the effective date of this act to a  
30 **\*[medical]\*** *\*health\** care facility for its operation, upon the first  
31 renewal date thereafter, may be extended for a 1 year period of time,  
32 provided the facility then meets the requirements for licensure at  
33 the time said license was issued and submits an acceptable plan to  
34 meet current requirements at the end of said period of time.

1 13. In addition to authority granted to the department by this act  
2 or any other law, the department after serving the licensee with  
3 specific charges in writing, may assess penalties and collect the  
4 same within the limitations imposed by this act, deny, place on  
5 probationary or provisional license, revoke or suspend any and all  
6 licenses granted under authority of this act to any person, firm,  
7 partnership, corporation or association violating or failing to

8 comply with the provisions of this act, or the rules and regulations  
9 promulgated hereunder.

10 Notice of the assessment of penalties, revocation, suspension, the  
11 placing on probationary or provisional license or denial of a license  
12 together with a specification of charges shall be served on the  
13 applicant or licensee, personally or sent by certified mail to the  
14 address of record and the notice shall set forth the particular  
15 reasons for the assessment, denial, suspension, the placing on  
16 probationary or provisional license or revocation of the license.  
17 Such assessment, denial, suspension, the placing on probationary  
18 or provisional license, or revocation shall become effective 30 days  
19 after mailing, unless the applicant or licensee, within such 30-day  
20 period shall meet the requirements of the department or shall file  
21 with the department a written answer to the charges and give  
22 written notice to the department of its desire for a hearing in which  
23 case the assessment, denial, suspension, the placing on probationary  
24 or provisional license, or revocation may be held in abeyance until  
25 the hearing has been concluded and a final decision rendered.

26 The department shall afford the licensee an opportunity for a  
27 prompt hearing on the question of the assessment of penalties, the  
28 issuance, suspension or the placing on a probationary or provisional  
29 license, or revocation of the license. The procedure governing such  
30 hearings shall be in accordance with the rules and regulations of the  
31 department. Either party may be represented by counsel of his own  
32 choosing, and shall have the right to subpoena witnesses and to  
33 compel their attendance on forms furnished by the department.

34 The commissioner shall arrange for prompt and fair hearings on  
35 all such cases, render written decisions stating conclusions and  
36 reasons therefor upon each matter so heard, and is empowered to  
37 enter orders of denial, suspension, placing on probationary or pro-  
38 visional license or revocation consistent with the circumstances in  
39 each case, and may assess penalties and collect the same within the  
40 limitations imposed by this act.

1 14. Any person, firm, partnership, corporation or association  
2 who shall operate or conduct a **\*[medical]\*** *\*health\** care facility  
3 without first obtaining the license required by this act, or who shall  
4 operate such **\*[medical]\*** *\*health\** care facility after revocation or  
5 suspension of license, shall be liable to a penalty of \$50.00 for each  
6 day of operation in violation hereof for the first offense and for any  
7 subsequent offense shall be liable to a penalty of \$100.00 for each  
8 day of operation in violation hereof. Any person, firm, partnership,  
9 corporation or association who shall be found guilty of violating any  
10 rule or regulation adopted in accordance with this act as the same

11 pertains to the care of patients and neglects to rectify same within  
12 7 days after receiving notice from the department of such violation  
13 or who neglects to commence, within 7 days, such repairs to his  
14 licensed establishment after receiving notice from the department  
15 that hazardous or unsafe condition exists in or upon the structure  
16 in which the licensed premises is maintained shall be subject to a  
17 penalty of not less than \$10.00 or more than \$100.00 for each day  
18 that he is in violation of such rule or regulation. If, within 1 year  
19 after such violation such person, firm, partnership, corporation or  
20 association is found guilty of the same violation such penalties as  
21 hereinbefore set forth shall be doubled, and if there be a third viola-  
22 tion within such time, such penalties shall be tripled. In addition  
23 thereto the department may, in its discretion, suspend the license  
24 for such time as it may deem proper.

25 Any person, firm, partnership, corporation or association who  
26 shall, except in cases of an emergency, maintain more patients in his  
27 premises than he is licensed so to do, shall be subject to a penalty  
28 in an amount equal to the charge collected from such patient or  
29 patients plus \$25.00 for each extra patient so maintained.

1 15. Whenever a boarding home for sheltered care, boarding  
2 house or rest home or facility or institution of like character, not  
3 licensed hereunder, by public or private advertising or by other  
4 means holds out to the public that it is equipped to provide post-  
5 operative or convalescent care for persons mentally ill or mentally  
6 retarded or who are suffering or recovering from illness or injury,  
7 or who are chronically ill, or whenever there is reason to believe  
8 that any such facility or institution, not licensed hereunder, is  
9 violating any of the provisions of this act, then, and in such case,  
10 the department shall be permitted reasonable inspection of such  
11 premises for the purpose of ascertaining whether there is any viola-  
12 tion of the provisions hereof. If any such boarding home for  
13 sheltered care, boarding house, rest home or other facility or insti-  
14 tution shall operate as a private mental hospital, convalescent  
15 home, private nursing home or private hospital in violation of the  
16-18 provisions of this act, then the same shall be liable to the penalties  
19 which are prescribed and capable of being assessed against \***[med-**  
20 **ical]**\* *health* care facilities pursuant to this act.

21 Any person, firm, association, partnership or corporation, not  
22 licensed hereunder, but who holds out to the public by advertising  
23 or other means that the medical and nursing care contemplated by  
24 this act will be furnished to persons seeking admission as patients,  
25 shall cease and desist from such practice and shall be liable to a  
26 penalty of \$100.00 for the first offense and \$500.00 for each subse-

27 quent offense, such penalty to be recovered as provided for herein.

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

6 The commissioner may, in his discretion and subject to rules  
7 and regulations, accept from any licensee an offer in compromise in  
8 such amount as may in **\*[the discretion of the director]\*** *\*his judg-*  
9 *ment\** be proper under the circumstances in lieu of any suspension  
10 of any license by the commissioner. Any sums of money so collected  
11 by the commissioner shall be paid forthwith into the State Treasury  
12 for the general purposes of the State. In no case shall the penalty be  
13 compromised for a sum less than \$250.00 for the first offense and  
14 \$500.00 for the second and each subsequent offense; provided, how-  
15 ever, that any penalty of less than \$250.00 or \$500.00, as the case may  
16 be, may be compromised for a lesser sum.

17 The department may maintain an action in the name of the State  
18 to enjoin any person, firm, partnership, association or corporation  
19 from continuing to conduct, manage or operate a **\*[medical]\***  
20 *\*health\** care facility without a license, or after suspension or rev-  
21 ocation of license, or in violation of rules and regulations promul-  
22 gated hereunder.

1 17. All orders or determinations under this act shall be subject  
2 to review by a court of competent jurisdiction in accordance with  
3 the Rules of Court.

1 18. a. No government agency and no hospital service corporation  
2 organized under the laws of the State shall purchase, pay for or  
3 make reimbursement or grant-in-aid for any health care service  
4 provided by a **\*[medical]\*** *\*health\** care facility unless at the time  
5 the service was provided, the **\*[medical]\*** *\*health\** care facility  
6 possessed a valid license or was otherwise authorized to provide  
6A such service.

7 b. Payment by government agencies for health care services pro-  
8 vided by a **\*[medical]\*** *\*health\** care facility shall be at rates estab-  
9 lished by the commissioner, based on elements of costs approved by  
9A him.

10 c. The Commissioner of Health in consultation with the Com-  
11 missioner of Insurance shall determine and certify the costs of pro-  
12 viding health care services, as reported by **\*[medical]\*** *\*health\**  
13 care facilities, which are derived in accordance with a uniform sys-  
14 tem of cost accounting approved by the Commissioner of Health.

15 Said certification shall specify the elements and details of costs  
16 taken into consideration.

17 d. Payment by hospital service corporations, organized under  
18 the laws of this State, for health care services provided by a \*~~med-~~  
19 ical]\* *health*\* care facility shall be at rates approved as to reason-  
20 ableness by the Commissioner of Insurance.

1 19. All of the functions, powers and duties of the State Board of  
2 Control, the Commissioner of Institutions and Agencies and the  
3 Department of Institutions and Agencies and its Hospital Licens-  
4 ing Board related to administration of laws governing and con-  
5 cerning boarding homes for the sheltered, care of children \*~~an~~\*  
6 *and*\* adult persons, private mental hospitals, convalescent homes,  
7 private nursing homes and private hospitals, and relating to the  
8 planning, construction and licensing of \*~~medical~~\* *health*\* care  
9 facilities as defined in this act and the power to receive, allocate,  
10 expend, and authorize the expenditure of Federal moneys available  
11 for \*~~medical~~\* *health*\* care facility construction and renovation  
12 are hereby transferred and assigned to, assumed by and devolved  
13 upon the State Department of Health. To effectuate such transfer  
14 there shall also be transferred such officers and employees as are  
15 necessary, all appropriations or reappropriations, to the extent of  
16 remaining unexpended or unencumbered balances thereof, whether  
17 allocated or unallocated and whether obligated or unobligated, and  
18 all necessary books, papers, records and property. All rules, regu-  
19 lations, acts, determinations and decisions in force at the time of  
20 such transfer and proceedings or other such matters undertaken or  
21 commenced by or before the Department of Institutions and Agen-  
22 cies or the Hospital Licensing Board pertaining to the planning,  
23 construction, licensing and operation of such \*~~medical~~\* *health*\*  
24 care facilities, and the administration of Federal moneys for \*~~med-~~  
25 ical]\* *health*\* care facility construction, and renovation pending  
26 at the time of such transfer, shall continue in force and effect until  
27 duly modified, abrogated or completed by the Department of Health.

1 20. Employees of the present Bureau of Community Institutions  
2 in the Department of Institutions and Agencies responsible for  
3 administration of laws governing and concerning boarding homes  
4 for the sheltered care of adult persons, private mental hospitals,  
5 convalescent homes, private nursing homes and private hospitals  
6 are hereby transferred to the State Department of Health. Persons  
7 so transferred shall be assigned such duties as the State Commis-  
8 sioner of Health shall determine.

1 21. All functions, powers, duties, records, and property of the  
2 Department of Institutions and Agencies, and personnel of the

3 Bureau of Medical Facilities Construction and Planning relating  
4 to receipt of money from the Federal Government for the purpose  
5 of making payments for construction of hospitals, including public  
6 health centers and related facilities within the State, and for an  
7 inventory and survey in connection therewith under or pursuant  
8 to any Federal law providing for the payment of such moneys as  
9 established and authorized by the provisions of c. 83, P. L. 1947 (C.  
10 30:1-19 et seq.), are hereby transferred to the State Department of  
11 Health.

1 22. The Hospital Licensing Board created pursuant to P. L. 1947,  
2 c. 340, s. 7 (C. 30:11-6) is hereby abolished. Upon the establishment  
3 of the Health Care Administration Board, all the functions, powers  
4 and duties of the Hospital Licensing Board, transferred to and  
5 vested in the Department of Health pursuant to section 19 of this  
6 act, shall be assumed by and devolved upon the Department of  
7 Health, to be exercised by the said Health Care Administration  
8 Board. Pending the appointment of members, establishment and  
9 convening of said Health Care Administration Board, all the func-  
10 tions, powers and duties thereof shall be exercised by the  
11 department.

1 23. With respect to the functions, powers and duties of the State  
2 Board of Control, the Commissioner of Institutions and Agencies  
3 and the Department of Institutions and Agencies, which are herein  
4 transferred and vested in the Department of Health, whenever in  
5 any law, rule, regulation, contract, document or otherwise, reference  
6 is made to the State Board of Control or the Department of In-  
7 stitutions and Agencies the same shall be deemed to mean and  
8 refer to the Department of Health, and reference to the Commis-  
9 sioner of Institutions and Agencies in connection therewith shall be  
10 deemed to mean and refer to the Commissioner of Health.

1 24. If any clause, sentence, paragraph, subsection or section of  
2 this act shall be adjudged by any court of competent jurisdiction to  
3 be invalid, the judgment shall not affect, impair or invalidate the  
4 remainder thereof, but shall be confined in its operation to the  
5 clause, sentence, paragraph, subsection or section thereof directly  
6 involved in the controversy in which this judgment shall have been  
7 rendered.

1 25. Section 1 of c. 366, P. L. 1938 (C. 17:48-1) is amended to  
2 read as follows:

3 1. A hospital service corporation is hereby declared to be any  
4 corporation organized, without capital stock and not for profit, for  
5 the purpose of establishing, maintaining and operating a nonprofit  
6 hospital service plan. A hospital service plan is hereby defined as a

7 plan whereby [hospital service is] *health care services* are pro-  
 8 vided by a hospital service corporation or by a [hospital or institu-  
 9 tion] \***[medical]**\* *health\* care facility* with which the corporation  
 10 has a contract for such [hospital service] *health care services* to  
 11 persons who become subscribers under contracts with the corpora-  
 12 tion. [Hospital service] *Health care services* provided by a hospital  
 13 service corporation shall [consist of hospital] *include health care*  
 14 provided (a) through a [hospital or institution] \***[medical]**\*  
 15 *health\* care facility* which is maintained by a State or any of its  
 16 political subdivisions; (b) through a [hospital or institution]  
 17 \***[medical]**\* *health\* care facility* licensed by the [Department of  
 18 Institutions and Agencies] *Department of Health*; (c) through such  
 19 other [hospitals and institutions,] \***[medical]**\* *health\* care facili-*  
 20 *ties* as shall have been designated by the [Department of Institu-
 21 tions and Agencies] *Department of Health* for [hospital care]  
 22 *health care services*; (d) through [hospitals and institutions,]  
 23 \***[medical]**\* *health\* care facilities* located in other states, which  
 24 are subject to the supervision of such other States provided that  
 25 such last mentioned [hospitals and institutions,] \***[medical]**\*  
 25A *health\* care facilities*, if they were located in this State, would be  
 26 eligible to be licensed or designated by the [Department of Institu-
 27 tions and Agencies] *Department of Health*; (e) through nonprofit  
 28 hospital service plans of other States approved by the Commis-  
 29 sioner of [Banking and] Insurance.

1 26. Section 7 of c. 366, P. L. 1938 (C. 17:48-7) is amended to read  
 2 as follows:

3 7. Any hospital service corporation may enter into contracts *with*  
 4 \***[medical]**\* *health\* care facilities* for the rendering of [hospital]  
 5 *health care services* to any of its subscribers only with [hospitals  
 6 and institutions referred to in section 1 of this act] *licensed* \***[med-**  
 7 *ical]\* *health\* care facilities*.*

8 [Payment] *Rates of payment* by such hospital service corpora-  
 9 tion pursuant to written contract with a hospital or institution for  
 10 the services contracted thereunder [shall not for a fiscal period be  
 11 in excess of the aggregate amount that would be obtained by apply-  
 12 ing the particular hospital's or institution's regular charges to the  
 13 general public for the same services to all such cases for which pay-  
 14 ment is made for such fiscal period by such hospital service corpora-  
 15 tion to such hospital or institution and] *may be in the form of*  
 16 [made on a basis of] a level per diem amount established for the  
 17 particular hospital or institution for each day of [hospital] *health*  
 18 *care services and* [A schedule of all rates of payments to hospitals  
 19 and institutions by such hospital service corporations pursuant to

20 such contracts shall be filed with the Commissioner of Banking and  
21 Insurance. If the commissioner shall at any time notify the corpora-  
22 tion filing the same of his disapproval of any such rate of payment,  
23 as being excessive or inadequate, it shall be unlawful thereafter for  
24 payments to be made under such contract. Such disapproval of the  
25 commissioner shall be subject to review by the Superior Court in a  
26 proceeding in lieu of prerogative writ. *]* prior to payment, shall be  
27 approved as to reasonableness by the Commissioner of Insurance  
28 following certification made pursuant to section 18 of the *\*[Med-*  
29 *ical]\* \*Health\* Care Facilities Planning Act ( P. L. 1971, c. . . . )*.  
30 The maximum rate of payment to eligible hospitals and institutions  
31 not under contract with such hospital service corporation shall not  
32 exceed the *[above prescribed limitations] particular hospital's or*  
33 *institution's regular charges to the general public for the same ser-*  
34 *vices* and shall be set forth in the certificate issued by such hospital  
35 service corporation to any subscriber. The basis and extent of pay-  
36 ment, if any, by such hospital service corporation under agreement  
37 with nonprofit hospital service plans of other states shall be subject  
38 to the approval of the Commissioner of *[Banking and] Insurance*.

1 27. Nothing in this act shall be construed to deprive any person of  
2 any tenure rights or of any right or protection provided him by  
3 Title 11 of the Revised Statutes, Civil Service, or under any pension  
4 law or retirement system.

1 28. This act shall be known and may be cited as the *"\*[Medical]\**  
2 *\*Health\* Care Facilities Planning Act."*

1 29. This act shall take effect at the beginning of the eighth  
2 biweekly pay period following enactment except that all arrange-  
3 ments and actions necessary and appropriate to enable this act to  
4 become fully operative on such date shall be made as promptly as  
5 possible as though this act were effective and operative  
6 immediately.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 941

March 8, 1971

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(a) of the Constitution, I herewith return Assembly Bill No. 941, without my approval.

Assembly Bill No. 941 would provide for the issuance of certificates of need for new medical care facilities by a board in the Department of Institutions and Agencies. The bill would establish a rather complicated review mechanism and provide for certain non-governmental boards to have a veto over actions of the executive branch of government. It would also re-enact certain sections of Title 30, almost without change.

I am sympathetic to the concept of a certificate of need in order to prevent unnecessary and costly duplication of medical services, and to the extent this would improve medical care delivery. However, it is my firm belief that the procedure established in this bill would not accomplish this purpose. The rather cumbersome and awkward procedures do not square with modern governmental techniques. In addition, the bill itself contains various internal inconsistencies and errors which would not allow me to give it my approval if I were otherwise disposed to the approach contemplated.

It is my belief that the certificate of need function should be accomplished by the single State department charged with the responsibility for medical planning and supervision. That department is the Department of Health. It is also my belief that modernization and stream-lining of the regulatory functions regarding hospitals and nursing homes are vitally needed. There are presently several bills pending in the legislature which, in varying degrees, would accomplish these purposes. I would certainly be willing to consider appropriate legislation which accomplishes the goals referred to herein, which have as their principal object the continued improvement and upgrading of health care delivery for all our citizens.

I am, therefore, returning Assembly Bill No. 941 without my approval.

Respectfully,

/s/ William T. Cahill  
GOVERNOR

Attest:

/s/ Jean E. Mulford  
Acting Secretary to the Governor

ASSEMBLY, No. 941

STATE OF NEW JERSEY

INTRODUCED APRIL 20, 1970

By Assemblymen AZZOLINA, EWING, COLEMAN, SCHLUTER, McDONOUGH, IRWIN, FIORE, RINALDI, VANDER PLAAT, HAELIG, HURLEY, CAFIERO, A. S. SMITH, MABIE, GARBALDI, KIEHN, RAYMOND, HORN, FAY, SUMINSKI, ESPOSITO, HIRKALA and PARKER

(Without Reference)

AN ACT requiring the licensing, inspection and regulation of medical care facilities, providing for certificates of need, providing for regulations, enforcement procedures and penalties for the violation thereof, supplementing Title 30 of the Revised Statutes, and repealing chapter 11 of Title 30 of the Revised Statutes, chapter 340 of the laws of 1947, approved June 24, 1947, chapter 161 of the laws of 1956, approved November 28, 1956, and chapter 148 of the laws of 1964, approved July 31, 1964.

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

ARTICLE 1.

PUBLIC POLICY; DEFINITIONS; ORGANIZATION

- 1 1. It is declared to be the public policy of this State
- 2 a. That the construction and expansion of medical care facilities,
- 3 and the institution of additional medical care services, shall be
- 4 accomplished in a manner which is orderly, economical and con-
- 5 sistent with the effective development of necessary and adequate
- 6 means of providing for the health care of the people of New Jersey;
- 7 and
- 8 b. That basic standards for the care of individuals in medical
- 9 care facilities shall be established, maintained and enforced, in-
- 10 cluding standards for the construction, maintenance and operation
- 11 of such facilities in a manner as to assure safe and adequate
- 12 treatment.

2 a. "Authorized area planning council" means a voluntary, non-  
3 profit organization, of which there shall be at least 7, independent  
4 of any governmental agency, composed of persons representative  
5 of providers which shall include but not be limited to hospitals  
6 and nursing homes, and consumers of medical care services, formed  
7 for the purpose of planning for health facilities in a definite geo-  
8 graphical area, which is recognized by the State board through  
9 referral of applications for certificates of need as provided by  
10 this act.

11 b. "Commissioner" means the Commissioner of the New Jersey  
12 Department of Institutions and Agencies.

13 c. "Department" means the New Jersey Department of Institu-  
14 tions and Agencies.

14A d. "Hospital Licensing Board" means the hospital licensing  
14B board established pursuant to P. L. 1947, chapter 340, section 7  
14C and continued pursuant to this act.

15 e. "Medical care facility" means a convalescent home, extended  
16 care facility, hospital, mental hospital, nursing home, skilled  
17 nursing home, or any other institution, whether operated for profit  
18 or not and whether private or governmental, which maintains and  
19 operates facilities for the diagnosis, treatment or care of 2 or more  
20 unrelated patients. Such term shall not include first-aid stations  
21 for emergency medical or surgical treatment or similar facilities  
22 where no continuous bed care or protracted treatment is contem-  
23 plated or performed.

24 f. "Medical care service" means a health service provided by a  
25 medical care facility for the diagnosis, treatment or care of its  
26 patients, as the same may be further defined and limited for the  
27 purposes of this act by rules and regulations of the State board.

28 g. "Patient" means a person who is suffering from mental ill-  
29 ness, mental deficiency, mental retardation, an acute or chronic  
30 illness or injury, or who is crippled, convalescent or infirm and who  
31 is in need of medical and nursing care on a continuing basis, or  
32 who is in need of obstetrical or other medical or nursing care.  
33 Infirm is construed to mean that the individual is in need of  
34 assistance in bathing, dressing or some type of supervision.

35 h. "State board" means the State Board of Control of the New  
36 Jersey Department of Institutions and Agencies.

37 i. "State planning council" means the existing Health Facilities  
38 Planning Council for New Jersey or any successor organization  
39 having the same characteristics as an area planning council but  
40 which is formed for the purpose of planning for health facilities  
41 on a State-wide basis.

1 3. The State Board of Control of the Department of Institutions  
2 and Agencies, appointed by the Governor with the advice and  
3 consent of the Senate, shall adopt, promulgate and enforce such  
4 rules, regulations, and minimum standards, and shall do or cause  
5 to be done all other acts and things, as may be reasonably neces-  
5A sary to accomplish the purposes of this act.

6 Such rules, regulations and standards shall be binding upon all  
7 persons applying for or holding a certificate of need or a license  
8 under the provisions of this act.

1 4. The hospital licensing board established pursuant to P. L.  
2 1947, chapter 340, section 7 is continued. The members of the  
3 board in office on the effective date of this act shall continue in  
4 office for the duration of the terms for which they were respectively  
5 appointed and until the appointment of their successors.

6 The board shall consist of the Commissioner of the Department,  
7 the State Commissioner of Health, the president of the State  
8 Board of Medical Examiners, two hospital administrators of rec-  
9 ognized ability and six qualified persons, two of whom shall repre-  
10 sent the interests of the public at large, one of whom shall have  
11 special qualifications and training in the field of nursing, one of  
12 whom shall be selected from among the official boards and admin-  
13 istrators of the several nonprofit homes for the aged and two of  
14 whom shall be selected from among the owners and administrators  
15 of the several private nursing homes. The board shall be repre-  
16 sentative of the aforementioned groups and shall be appointed by  
17 the State Board of Control, subject to the approval of the Gov-  
18 ernor, for terms of 6 years, except when appointed to complete an  
19 unexpired term. Members whose terms expire shall hold office  
20 until appointment of their successors. They shall serve without  
21 compensation but shall be reimbursed for actual expenses incurred  
22 in the performance of their official duty.

1 5. The licensing board shall have the following responsibilities  
2 and duties:

3 a. To consult and advise with the State board in matters of  
4 policy affecting the administration of this act and in the develop-  
5 ment of rules, regulations and minimum standards as provided for  
6 herein.

7 b. To review and make recommendations with respect to such  
8 rules, regulations and minimum standards prior to their promulga-  
9 tion by the State board.

10 c. To review applications for certificates of need and recom-  
11 mendations thereon as provided for in this act; to make recom-

12 recommendations to the State board concerning the issuance or denial of  
 13 any such certificate; and to review and make recommendations to  
 14 the State board concerning the continuance or termination of certi-  
 15 ficates previously issued.

16 d. To review applications for licenses as provided for in this  
 17 act; to make recommendations to the State board concerning the dis-  
 18 position of such applications; and to review and make recommenda-  
 19 tions to the State board concerning appropriate action to be taken  
 20 as to licenses previously issued.

21 e. To act for the department; upon delegation by the State board,  
 22 in reviewing charges of violations of this act in order that it might  
 23 recommend to the State board the imposition of penalties as are  
 24 authorized by this act and appropriate to the circumstances.

25 f. To hold or provide for the holding of hearings, in accordance  
 26 with procedures approved by the State board, as may be necessary  
 27 and appropriate to carry out the responsibilities and duties pro-  
 28 vided herein.

## ARTICLE 2

### CERTIFICATE OF NEED

1 6. No medical care facility shall be constructed or expanded and  
 2 no new medical care service shall be instituted after the effective  
 3 date of this act except upon application for and receipt of a certifi-  
 4 cate of need as provided by this act. No agency of the State or of  
 5 any county or municipal government shall approve any grant of  
 6 funds for, or issue any license to, a medical care facility which is  
 7 constructed or expanded, or which institutes a new medical care  
 8 service, in violation of the provisions of this section.

1 7. Certificates of need shall be issued by the commissioner in  
 2 accordance with the provisions of this act and general policies  
 3 established by the State board. No such certificate shall be denied  
 4 except with the approval of the State board; and no decision shall  
 5 be made contrary to the recommendations of an area planning coun-  
 6 cil unless such council and applicant have been notified by the com-  
 7 mission of the reasons for its determination and have been granted  
 8 full opportunity for hearing. The licensing board shall afford  
 9 each applicant an opportunity for a prompt and fair hearing on  
 10 the denial of any applicant's request for a certificate of need, and  
 11 the procedure governing such hearings shall be in accordance with  
 12 the rules and regulations of the department. Every person may  
 13 be represented by counsel of his own choosing, subpoena witnesses  
 14 and compel their attendance on forms to be furnished by the de-

15 partment. The Commissioner of the Department of Institutions  
16 and Agencies shall arrange for prompt and fair hearings before  
17 the licensing board on all such cases and the commission shall  
18 render written decisions stating conclusions and reasons therefore  
19 upon each matter so heard consistent with the circumstances in  
20 each case.

21 No certificate of need shall be issued unless the action proposed  
22 in the application for such certificate is necessary to provide re-  
23 quired health care in the area to be served, can be economically  
24 accomplished and maintained, and will contribute to the orderly  
25 development of adequate and effective health services. In making  
26 such determinations there shall be taken into consideration (a) the  
27 availability of facilities or services which may serve as alternatives  
28 or substitutes, (b) the need for special equipment and services in  
29 the area, (c) the possible economies and improvement in services  
30 to be anticipated from the operation of joint central services,  
31 (d) the adequacy or financial resources and sources of future rev-  
32 enues, and (e) the availability of sufficient manpower in the several  
33 professional disciplines.

34 In the case of an application by a medical care facility established  
35 or operated by any religious body or denomination, the needs of the  
36 members of such religious body or denomination for care and  
37 treatment in accordance with their religious or ethical convictions  
38 may be considered to be public need.

1 8. Application for a certificate of need shall be made to the  
2 department, and shall be in such form and contain such information  
3 as the department may prescribe. Upon receipt of an application,  
4 copies thereof shall be referred by the department to the appro-  
5 priate authorized area planing council and to the State planning  
6 council for review.

7 The area planning councils and the State planning council shall  
8 provide adequate mechanisms for full consideration of each appli-  
9 cation and for developing recommendations thereon. Such recom-  
10 mendations, whether favorable or unfavorable, shall be forwarded  
11 to the licensing board within 60 days of the date of referral of the  
12 application. A copy of the recommendations of the area planning  
13 council shall be forwarded to the applicant and to the State plan-  
14 ning council which may submit a supplementary report thereon  
14A to the licensing board.

15 Recommendations by area planning councils, the State planning  
16 council and the licensing board as to issuance of a certificate of need  
17 shall be governed by and based upon the principles and consider-  
18 ations set forth in section 7 hereof.

19 No member, officer or employee of an area planning council or  
20 the State planning council shall be subject to civil action in any  
21 court as the result of any act done or failure to act, or of any  
22 statement or opinion made, while discharging his duties as such  
23 member, officer or employee, provided he acted in good faith with  
24 reasonable care and upon proper cause.

1 9. A certificate of need shall be valid for one year from the  
2 date of issue, except that the commissioner shall renew the cer-  
3 tificate for further periods upon the recommendation of the com-  
4 mission where the applicant has shown to the satisfaction of the  
5 commission by adequate proof that substantial progress towards  
6 completion has been demonstrated.

### ARTICLE 3

#### LICENSE

1 10. No medical care facility shall operate within this State except  
2 upon license first had and obtained for that purpose upon applica-  
3 tion made as hereinafter provided. Licenses shall be granted by  
4 the commissioner in accordance with the provisions of this act and  
5 general policies established by the State board.

6 Nothing contained in this act shall be so construed as to interfere  
7 with the powers of the State Board of Medical Examiners to license  
8 medical practitioners in New Jersey.

1 11. As a basis for making proper disposition of applications for  
2 license under the provisions of this act there shall be established  
3 rules, regulations and minimum standards, taking into consider-  
4 ation the different types of medical care facilities to be licensed,  
5 which will assure that patients shall receive medical and nursing  
6 care consistent with accepted practices and procedures for admin-  
7 istering such medical and nursing care in physical surroundings  
8 and under circumstances conducive to recovery and convalescence.  
9 Such rules, regulations and standards may include, but shall not  
10 be limited to, the regulation of medical and nursing care, extent  
11 of furnishing same, sanitation, dietetics, except where the diet  
12 has been prescribed by a licensed physician, heat, light, air, fire  
13 prevention and control, space allocation for patient care, housing  
14 and recreation facilities and related matters dealing with patient  
15 care and comfort.

16 No license shall be granted unless the applicant is adequately  
17 prepared to furnish the care and service to be provided by it in a  
18 manner consistent with the rules, regulations and standards estab-  
19 lished pursuant to this act.

1 12. Copies of proposed rules, regulations or minimum standards  
2 shall be mailed by certified mail to such persons who have filed with  
3 the department a written request for such proposed rules, regula-  
4 tions or minimum standards. Except in the case of an emergency,  
5 no rule, regulation or minimum standard shall be adopted until  
6 copies of said proposed rule, regulation or minimum standard  
7 shall be mailed to those persons who have requested them together  
8 with a notice of the time and place of a hearing to be had on such  
9 proposed rule, regulation or minimum standard.

10 No hearing so held shall be held earlier than 30 days after the  
11 mailing of such proposed rule, regulation or minimum standard  
12 and notice of hearing.

1 13. Application for a license to operate a medical care facility  
2 shall be made to the department, and shall be in such form and  
3 contain such information as the department may prescribe.

4 Upon receipt of an application for license, the department shall  
5 cause an investigation to be made of the applicant and the facility  
6 proposed for license to determine if said applicant is of good  
7 moral character and otherwise qualified under the provisions of  
8 this act, and if the facility complies with the rules, regulations  
9 and minimum standards established for the operation of such a  
10 facility pursuant to section 12 hereof.

1 14. Whenever any change shall occur in the facts as set forth in  
2 any application for a license, the licensee shall file with the com-  
3 missioner a notice in writing of such change within 10 days after  
4 the occurrence thereof. No notice need be given by corporate  
5 licensees of changes in stock holdings therein unless and until the  
6 aggregate of such changes, if made before the time of said applica-  
7 tion, would have prevented the issuance of the license.

8 Applicants shall answer such questions as may be asked con-  
9 cerning their character, financial ability, residence, citizenship  
10 and ability to operate a medical care facility and make such  
11 declarations as shall be required. All applicants may be duly sworn  
12 and all statements and applications shall be deemed material.  
13 Fraud, misrepresentation, false statements, misleading statements,  
14 evasions or suppression of material facts in the securing of a license  
15 are grounds for denial, suspension or revocation of the license.

1 15. Except as to persons presently licensed, no license shall be  
2 granted to a natural person unless he is a citizen of the United  
3 States and a resident of the State of New Jersey at the time of the  
4 submission of the application. No license shall be granted to any  
5 person under the age of 21 years; to any person who has been

6 convicted of a crime involving moral turpitude; or to any person  
7 who has been twice found guilty of violating the provisions of this  
8 act, or of any prior law relating to the licensing of a medical care  
9 facility, by a court of competent jurisdiction or who has admitted  
10 such guilt.

11 No license shall be issued to any corporation not presently  
12 licensed unless each legal or equitable owner of more than 10% of  
13 its stock, and each officer and member of the board of directors,  
14 qualifies as an individual applicant except for the fact of New Jer-  
15 sey residence, or until any disqualification is removed.

16 No license shall be issued to any partnership unless each partner  
17 qualifies as an individual applicant except that only one partner  
18 must meet the requirement of New Jersey residence, or until any  
19 disqualification is removed.

1 16. A license to operate a medical care facility shall be valid for  
2 1 year from date of issue, and, upon issuance or renewal of such  
3 license, the commissioner shall collect, respectively, a fee of  
4 \$75.00, which shall be paid into the General State Fund.

5 The department may in its discretion, for good cause, issue a  
6 temporary permit to operate or a provisional or probationary  
7 license for a stated period of time pending full compliance by the  
8 licensee with rules and regulations establishing minimum standards  
9 of operation. No license shall be transferable or assignable except  
10 with the written approval of the department and shall be posted  
11 in a conspicuous place on the licensed premises as prescribed by the  
12 regulations of the department.

13 Any medical care facility which is in operation at the time of  
14 promulgation of any applicable rule, regulation or minimum stan-  
15 dard under this act shall be given a reasonable time, not to exceed  
16 2 years from the date of such promulgation, within which to comply  
17 with such rule, and minimum standard, or subsequent amendments  
18 or supplements thereto. Nothing in this chapter shall be construed  
19 to require a licensee as a condition precedent to obtaining a re-  
20 newal of such license to make structural changes, other than  
21 maintenance and repairs, to the licensed facility or to increase or  
22 decrease the bed capacity thereof, nor to require any purchaser  
23 as a condition precedent to obtaining a license to make such struc-  
24 tural changes, other than maintenance and repairs, to said licensed  
25 facility or to increase or decrease the bed capacity thereof.

1 17. Any medical care facility which shall apply for a grant of  
2 Federal or State funds shall be required to comply, as a condition

3 precedent to receiving such funds, with the rules, regulations and  
4 minimum standards established pursuant to this act.

1 18. The department shall make or cause to be made such inspec-  
2 tions of the premises of the licensee from time to time as it may  
3 deem necessary to be assured that the licensee is at all times com-  
4 plying with the provisions of this act, with the rules and regulations  
5 promulgated hereunder and with the minimum standards estab-  
6 lished by virtue of the authority of this act. The licensee, prior to  
7 making any alterations, additions or improvements to its facility  
8 or prior to the construction of new facilities shall, before com-  
9 mencing such work, submit plans and specifications to the depart-  
10 ment for preliminary inspection and approval or recommendations  
11 with respect thereto. No such plan shall be disapproved if it com-  
12 plies with minimum requirements.

1 19. Any license granted under this act to a private institution  
2 for the mentally ill, mentally deficient or mentally retarded shall  
3 be the licensee's authority to receive and hold a person duly  
4 admitted or committed or committed pursuant to law.

#### ARTICLE 4

##### VIOLATIONS; PENALTIES; ENFORCEMENT

1 20. The department, after serving the licensee with specific  
2 charges in writing, may assess penalties and collect the same within  
3 the limitations imposed by this act, deny, place on probationary or  
4 provisional license, revoke or suspend any and all licenses granted  
5 under authority of this act to any person, firm, partnership, cor-  
6 poration or association violating the provisions of this act, or the  
7 rules and regulations promulgated hereunder.

8 Notice of the assessment of penalties, revocation, suspension, the  
9 placing on probationary or provisional license or denial of a license  
10 together with a specification of charges shall be sent to the applicant  
11 or licensee by registered mail and the notice shall set forth the  
12 particular reasons for the assessment, denial, suspension, the  
13 placing on probationary or provisional license or revocation of the  
14 license. Such assessment, denial, suspension, the placing on proba-  
15 tionary or provisional license, or revocation shall become effective  
16 30 days after mailing, unless the applicant or licensee, within such  
17 30-day period shall meet the requirements of the department or  
18 shall give written notice to the department of its desire for a  
19 hearing, in which case the assessment, denial, suspension, the plac-  
20 ing on probationary or provisional license, or revocation shall be  
21 held in abeyance until the hearing has been concluded and a final  
22 decision rendered; provided, however, that such applicant or

23 licensee may appeal to any court having jurisdiction of such matter.  
24 The department shall afford the licensee an opportunity for a  
25 prompt and fair hearing on the question of the assessment of pen-  
26 alties, the issuance, suspension or the placing on a probationary or  
27 provisional license, or revocation of the license. The procedure  
28 governing such hearings shall be in accordance with the rules and  
29 regulations of the department. Either party may be represented by  
30 counsel of his own choosing, subpoena witnesses and compel their  
31 attendance on forms furnished by the department.

32 The commissioner shall arrange for prompt and fair hearings on  
33 all such cases, render written decisions stating conclusions and  
34 reasons therefor upon each matter so heard, and is empowered to  
35 enter orders of denial, suspension, placing on probationary or  
36 provisional license or revocation consistent with the circumstances  
37 in each case, and may assess penalties and collect the same within  
38 the limitations imposed by this act.

1 21. Any person, firm, partnership, corporation or association  
2 who shall operate or conduct a medical care facility without first  
3 obtaining the license required by this act, or who shall operate  
4 such medical care facility after revocation or suspension of license,  
5 shall be liable to a penalty of \$25.00 for each day of operation in  
6 violation hereof for the first offense and for any subsequent  
7 offense shall be liable to a penalty of \$50.00 for each day of opera-  
8 tion in violation hereof. Any person, firm, partnership, corporation  
9 or association who shall be found guilty of violating any rule or  
10 regulation adopted in accordance with this act as the same pertains  
11 to the care of patients and neglects to rectify the same within 7 days  
12 after receiving notice from the department of such violation or  
13 who neglects to commence, within 7 days, such repairs to his  
14 licensed establishment after receiving notice from the department  
15 that hazardous or unsafe condition exists in or upon the structure  
16 in which the licensed premises is maintained shall be subject to a  
17 penalty of not less than \$10.00 or more than \$25.00 for each day  
18 that he is in violation of such rule or regulation. If, within 1 year  
19 after such violation such person, firm, partnership, corporation or  
20 association is found guilty of the same violation such penalties as  
21 hereinbefore set forth shall be doubled, and if there be a third  
22 violation within such time, such penalties shall be tripled. In ad-  
23 dition thereto the department may, in its discretion, suspend the  
24 license for such time as it may deem proper.

25 Any person, firm, partnership, corporation or association who  
26 shall, except in cases of an emergency, maintain more patients in  
27 his premises than he is licensed so to do, shall be subject to a

28 penalty in an amount equal to the charge collected from such  
29 patient or patients plus \$10.00 for each extra patient so maintained.

1 22. Whenever a boarding home for sheltered care, boarding house  
2 or rest home or facility or institution of like character, not licensed  
3 hereunder, by public or private advertising or by other means holds  
4 out to the public that it is equipped to provide postoperative or  
5 convalescent care for persons mentally ill or mentally retarded or  
6 who are suffering or recovering from illness or injury, or who are  
7 chronically ill, or whenever there is reason to believe that any such  
8 facility or institution, not licensed hereunder, is violating any of  
9 the provisions of this act, then, and in such case, the department  
10 shall be permitted reasonable inspection of such premises for the  
11 purpose of ascertaining whether there is any violation of the pro-  
12 visions hereof. If any such boarding home for sheltered care,  
13 boarding house, rest home or other facility or institution shall  
14 operate as a private mental hospital, convalescent home, private  
15 nursing home or private hospital in violation of the provisions of  
16 this act, then the same shall be liable to the penalties which are  
17 prescribed and capable of being assessed against medical care  
18 facilities pursuant to section 22 hereof.

19 Any person, firm, association, partnership or corporation, not  
20 licensed hereunder, but who holds out to the public by advertising  
21 or other means that the medical and nursing care contemplated by  
22 this act will be furnished to persons seeking admission as patients,  
23 shall cease and desist from such practice and shall be liable to a  
24 penalty of \$100.00 for the first offense and \$200.00 for each sub-  
25 sequent offense, such penalty to be recovered as provided for herein.

1 23. The penalties authorized by this act shall be recovered in  
2 a civil action, brought in the name of the State of New Jersey in the  
3 Superior Court or the County Court of any county, which court  
4 shall have jurisdiction of all actions to recover such penalties. No  
5 money penalties provided for herein shall be required to be paid  
6 until the appellate procedures provided for in the courts shall have  
7 been exhausted and then only if on appeal it is determined that the  
8 licensee was in violation of the provisions hereof or the rules and  
9 regulations of the State board establishing minimum standards of  
10 operation. No penalties shall be assessed for the period of time  
11 following the filing of an appeal with the appropriate appellate  
12 court from a determination adverse to the licensee rendered by the  
13 department and until such appellate court or courts shall have  
14 rendered a final decision, and any penalties assessed prior thereto  
15 shall be recoverable only to the extent that the appellate court or  
16 courts affirms the decision of the department in the first instance.

17 Money penalties, when recovered, shall be payable to the General  
18 State Fund.

19 The State board, with the approval of the Attorney General, is  
20 hereby authorized and empowered to compromise and settle claims  
21 for money penalties in appropriate circumstances where it appears  
22 to the satisfaction of the State board that payment of the full  
23 penalty will work severe hardship on any individual not having  
24 sufficient financial ability to pay the full penalty but in no case  
25 shall the penalty be compromised for a sum less than \$250.00 for  
26 the first offense and \$500.00 for the second and each subsequent  
27 offense; provided however, that any penalty of less than \$250.00  
27A or \$500.00, as the case may be, may be compromised for a lesser  
28 sum.

29 The department may, in the manner provided by law, maintain  
30 an action in the name of the State of New Jersey for injunction  
31 against any person, firm, partnership, association or corporation  
32 continuing to conduct, manage or operate a medical care facility  
33 without a license, or after suspension or revocation of license.

34 The practice and procedure in actions instituted under authority  
35 of this section shall conform to the practice and procedure in the  
36 court in which the action is instituted.

#### ARTICLE 5

##### GENERAL PROVISIONS

1 24. The cost of administration of this act shall be provided for  
2 in the annual appropriations act.

1 25. Nothing in this act shall give the licensing authority or agency  
2 provided for herein the power or authority to require any hospital  
3 to practice or permit sterilization of human beings, euthanasia,  
4 birth control or any other similar practice contrary to the dogmatic  
5 or moral beliefs of any well established religious body or  
6 denomination.

7 Nothing in this act shall be so construed as to give authority to  
8 supervise or regulate or control the remedial care or treatment of  
9 individual patients who are adherents of any well recognized church  
10 or religious denomination which subscribes to the act or art of  
11 healing by prayer and the principles of which are opposed to  
12 medical treatment and who are resident in any home or institution  
13 operated by a member or members, or by an association or  
14 corporation composed of members of such well recognized church  
15 or religious denomination; provided, that such home or institution  
16 admits only adherents of such church or denomination and is so  
17 designated; nor shall the existence of any of the above conditions  
18 alone militate against the licensing of such a home or institution;

19 and provided further, that such home or institution shall comply  
20 with all rules and regulations relating to sanitation and safety of  
21 the premises and be subject to inspection therefor.

22 Nothing herein contained shall modify or repeal any laws, rules,  
23 and regulations governing the control of communicable diseases.

24 Nothing in this act shall be so construed as to require the issu-  
25 ance of a certificate of need, nor shall any person, partnership, or  
26 corporation owning or operating a medical care facility at the  
27 time this act takes effect be required to apply for a certificate of  
28 need for the purpose of replacing either by new construction or  
29 by modernizing an existing medical care facility. Nor shall this  
30 act be so construed as to give authority to any board created  
31 herein to cause an existing owner or licensee to reduce or increase  
32 his authorized bed capacity where the said owner or licensee makes  
33 application for the purpose of replacing or modernizing a facility  
34 licensed at the time this act takes effect.

1 26. This act shall be liberally construed, and any particular grant  
2 of power contained in this act shall be held in specification but not  
3 in limitation of general powers.

4 To the extent that this act contains provisions not inconsistent  
5 with those of prior laws, it shall be construed as a continuation of  
6 such laws. The repeal of the acts and statutes as provided by sec-  
7 tion 28 hereof shall not affect any rules, regulations or minimum  
8 standards previously established by the State board; shall not  
9 terminate or modify any licenses or permits previously granted;  
10 and shall not terminate or suspend any penalties, revocations,  
11 suspensions or other actions effected under the provisions of prior  
12 laws because of violations of such laws.

1 27. If the provisions of any article, section or clause of this act  
2 or the application thereof to any person shall be judged invalid by  
3 a court of competent jurisdiction, such order or judgment shall be  
4 confined in its operation to the controversy in which it was rendered,  
5 and shall not affect or invalidate the remainder of any provision  
6 of any article, section or clause of this act or the application of any  
7 part thereof to any other person or circumstance and to this end,  
8 the provisions of each article, section and clause of this act are  
9 hereby declared to be severable.

1 28. Chapter 11 of Title 30 of the Revised Statutes; chapter 340  
2 of the laws of 1947, approved June 24, 1947; chapter 161 of the laws  
3 of 1956, approved November 28, 1956; and chapter 148 of the laws  
4 of 1964, approved July 31, 1964; are repealed.

1 29. This act shall take effect immediately but shall remain in-

2 operative for 90 days thereafter except that all arrangements and  
3 actions necessary and appropriate to enable this act to become  
4 fully operative on such date shall be made as promptly as possible  
5 as though this act were effective and operative immediately.

MAY 10, 1971

FOR RELEASE:  
IMMEDIATE

5-2088

Governor William T. Cahill today signed into law the Health Care Facilities Planning Act which provides for the Certificate of Need concept in New Jersey for the first time and which provides for procedures aimed at reducing or curtailing spiraling hospital costs. The bill is Senate Bill No. 2088 sponsored by Senator Dumont.

The bill had the strong support of Commissioner Robert Clifford of the Department of Insurance and Commissioner James Cowan of the Department of Health, as well as Blue Cross and organized labor.

In signing the legislation, Governor Cahill expressed his concern with "-- hospital costs which have increased at a rate 6 times as fast as the cost of living during the past 5 years.

--obsolete and inadequate hospitals, particularly in urban areas

--the uneven distribution of care as reflected by the health statistics of our rural and core city areas."

Governor Cahill said that the new law will "enable the people of this State to receive better health care at a price which they can afford. It permits the State to be certain that the health care facilities in this State are responsive to the needs of its people, in keeping with our repeated aims of providing better delivery of health care to New Jerseyans."

The Governor stated that the Health Care Facilities Planning Act would provide a mechanism for reducing unnecessary duplication of health care facilities. The primary responsibility for the implementation of this act has been placed most logically with the State Department of Health, which is the agency designated as the Comprehensive State Health Planning Agency and which has the expertise and experience to evaluate the needs of hospitals and to measure the relative priorities of all human-life requirements.

Senate Bill No. 2053 empowers the State Health Commissioner with the approval of a 13 member Health Care Administration Board, to establish a uniform system of reports and audits of health care facilities; certify rate schedules, payments, reimbursements and other charges for health care, and establishes standards for licensing medical care facilities. The bill also transfers the hospital licensing function from the Department of Institutions and Agencies to the Department of Health.

Under the bill, the Department of Health would work with the State Health Planning Council and local planning councils to survey and establish the health needs in the various parts of the State. Before new health care facilities could be built or expanded, a certificate of need would have to be obtained from the Department.

The Commissioner of Insurance would be empowered, in conjunction with the Commissioner of Health, to determine whether reimbursement rates by Blue Cross and other third party carriers would be reasonable.

The bill is a response to the situation which has developed where citizens of this State are losing their ability to afford and obtain basic health care.

# # # #

# State Health Care Bill Ready So

Evening News Trenton Bureau

TRENTON—A bill that would give the state broad powers to regulate health care planning and costs is expected to be released from the Senate Institutions Committee in about a week.

Chairman Joseph J. Maraziti, R-Morris, said he will ask for release of the bill after some amendments and expects it to get "quick action" in both houses of the Legislature before the summer recess.

The measure, sponsored by Sen. Wayne Dumont, R-Warren, drew opposition yesterday from spokesmen for the New Jersey Hospital Association, Medical Society and Nursing Homes Association who attacked certain provisions of legislation while supporting the concept of some regulation of the expansion in the health industry.

### Voluntary Planning Fails

In his rebuttal at the end of a public hearing on the bill conducted by Maraziti's committee, Dumont said the opposition was understandable. "They don't want government regulation," he said, "but voluntary planning has failed and if we don't do something the cost of basic health care will be out of reach of the man in the street."

Dumont and other witnesses pictured many medical facilities as overconstructed with exotic equipment and facilities not required for delivering good, basic health services. One witness said, "We don't need open heart surgery facilities at every corner of the intersection."

The bill would empower the state health commissioner, with the approval of a health care administration board, to establish a uniform system or reports and audits of health care facilities; certify rate schedules, payments, reimbursements, grants, and other charges for health care, and establish standards for licensing medical care facilities.

The commissioner would work in the State Health Planning Council and local planning councils to establish the health needs in the various parts of the state.

No health care facility of any kind could be built or expanded without obtaining a certificate or need from the commissioner

with the approval of the board.

In his testimony before the committee, State Health Commissioner Dr. James Cowan said, "there appears to be a steadily growing awareness on the part of the public that the availability of quality health care is being threatened by spiralling prices, by duplication and underutilization of dramatic but expensive health procedures, by the lack of basic health services for a large segment of the population and by a critical shortage of health manpower."

He said the situation "is so grave that a major portion of our citizens may be in danger of losing its ability to afford and obtain even basic health care."

Cowan said there is \$520 million in new hospital construction planned in New Jersey according to the records of the Department of Institutions and Agencies, which can exercise no control over the proliferation of new or expanded facilities.

"Any individual, group, or corporation can construct any facility as long as it meets the standards for licensing," Cowan said.

The bill would transfer all these licensing functions to the health department with added controls geared to the health needs of the area for which the construction is proposed, he said.

State Insurance Commissioner Robert N. Clifford, who this month approved a 9 per cent rate increase for Blue Cross subscribers, said the boost would have been much higher if it were not for a voluntary budget review system instituted by his department last year.

### Soaring Costs

Hospital costs are rising in New Jersey at about a 12 per cent rate annually and Clifford warned that this could mean a \$1,000 per day cost by 1992 which could not be considered "excessive—in terms of our present definition of the word."

Duane E. Minard Jr. president of New Jersey Blue Cross, supported the bill, saying voluntary planning has failed to provide needed facilities and services at a reasonable cost.

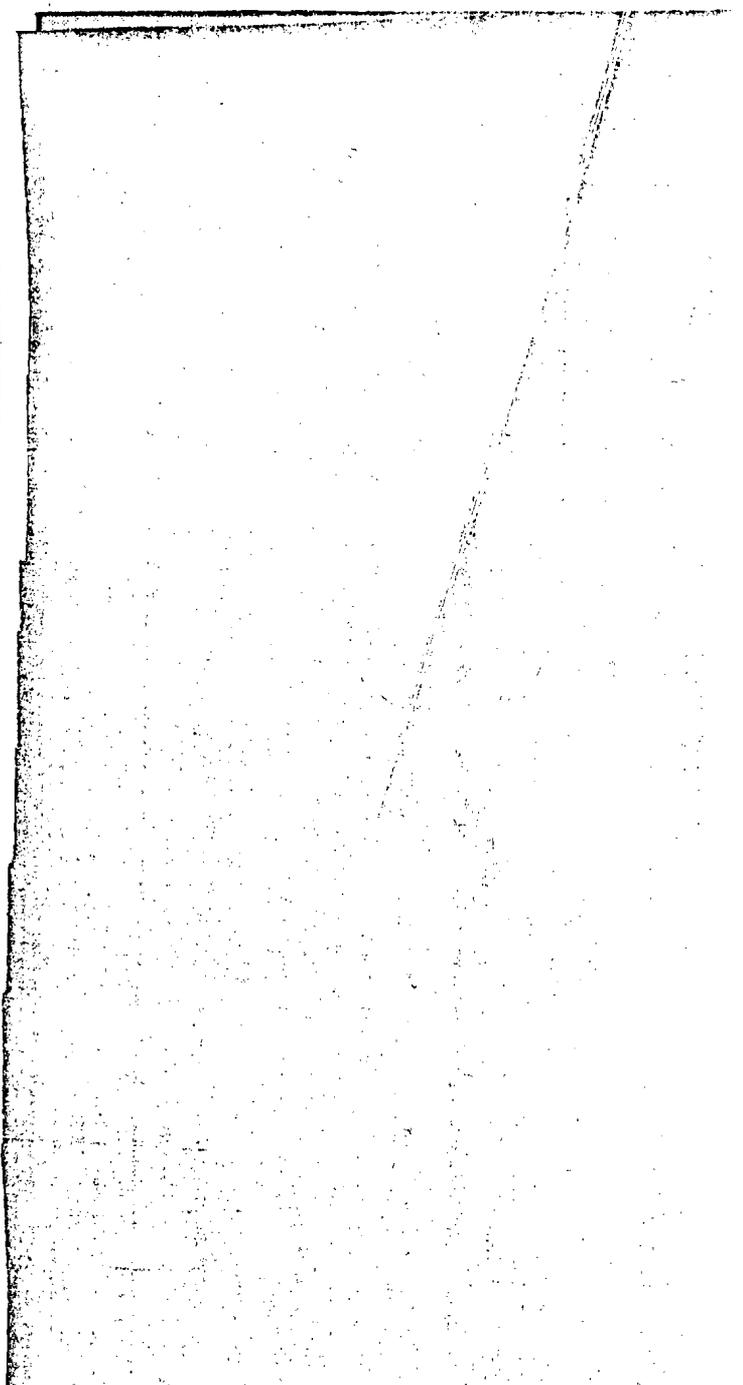
"The licensure of health care facilities is a state function and

no amount of careful and elaborate planning mechanism on a voluntary basis can forestall the waste, both in capital and operating expense implicit in a system which relies solely on economic sanctions," he said.

Jack Owen, president of the New Jersey Hospital Association, said the bill does not provide an appeal mechanism for hospitals that are turned down

on their construction application and Maraziti said the bill rapidly will be amended to meet this objection.

Owen also warned that unless the financial needs of the hospitals are recognized by the health commissioner and the board in establishing cost factors that will be included in any reimbursement formulas,



# Governor firm on health bill

(Continued from Page One)

tration's health proposal, group practice will be increasingly utilized by using supplemental insurance to support medical care within that framework.

"The amendment would have excluded one of the new developing patterns for the delivery of health care out from under control of the bill," said the health department spokesman.

Another State House source said the society wants "to specifically protect themselves and continue to do business in the same old fashioned way."

Cahill, however, was adamantly opposed to any such amendments that would make ineffective the whole purpose of the bill—to put the brakes on increasing health care costs.

A Medical Society spokesman, however, countered the proposed amendments would in no way head off the establishment of group practice in New Jersey.

"The provisions of the bill, however, should be clarified so that Blue Cross could not contract for group practice physician services insofar as medicine, surgery, pediatrics and psychiatry were concerned," he said.

The spokesman said other amendments offered by the society were "geared to what we felt was too great a concentration of power in the health commissioner."

New Jersey physicians are concerned, he said, that the Senate bill would grant the health commissioner the right to interfere with committees of the medical staff of hospitals.

"All hospitals have committees that are daily in process of reviewing the care a physician gives to an individual patient, and this lies within the domain of the

medical institution—and not the health commissioner," the spokesman said.

"The physician should be reviewed by the fellows around at the time, not someone 70 miles away, or someone not treating patients anymore," the spokesman said.

He said that if the bill is not amended, "the society will probably disapprove it." The society's board of trustees will consider the legislation on March 21, he said.

Health Commissioner James Cowan said yesterday that "the public in New Jersey should be alerted to the importance of passing this very important bill."

He pointed out that one of its most significant provisions would set up a certificate of need program to prevent unnecessary construction and costly duplication of hospital facilities.

"The fact that an enthusiastic group decides it wants to establish or expand a hospital or some other health facility doesn't make it a sensible proposition unless it is related to actual need and the ability to staff it," Cowan said.

Meanwhile, the Comprehensive Health Planning Agency in the health department has agreed to a Blue Cross request that it review all hospital capital expenditure plans to help avoid costly duplication of facilities.

But the effectiveness of the review may be hampered until the Legislature enacts the Dumont bill, according to agency director J. Robert Lackey.

Lackey has advised all hospital administrators that his office is establishing procedures on hospital expansion "to be used as a basis for Hospital Service Plan (Blue Cross) reimbursement."

# Governor firm on bill to control health care costs

By LINDA LAMENDOLA

The Cahill administration and the powerful New Jersey Medical Society are locked in a battle over proposed amendments that would weaken the Administration's legislation to control spiraling hospital and medical costs in the state.

Gov. William T. Cahill and Health Commissioner James R. Cowan want a Senate bill passed immediately that would shift state control over hospitals and physicians to the Health Department and increase governmental scrutiny over the construction of hospitals, the provision of

services and operating costs.

Reportedly, Gov. Cahill wants the bill passed as it stands without any major amendments that would weaken its effectiveness.

He took the strong stance, The Star-Ledger learned, last Thursday after representatives of the New Jersey Medical Society met with the bill's sponsor, Sen. Wayne Dumont (R-Hunterdon, Sussex, Warren) and tried to push through some amendments.

The implication was that, unless the amendments are enacted, the Medical Society would formally go on record against the legislation.

So far, it has remained officially silent although the New Jersey Hospital Association and the Nursing Home Association have spoken out against it.

A spokesman at the health department noted, "we got into some difficulty because Sen. Dumont and Commissioner Cowan met with the society and accepted some language in the amendments. Later in the day, it developed the language was more far-reaching than the senator and the commissioner had realized at first.

According to the spokesman the amendments set by the medical society would exclude physicians banding together in group practice from any regulations by the health commissioner and would also screen out Blue Cross participation.

Under the Nixon Adminis-

(Please turn to Page 37)

NJ Medical Service

# are Bill Ready Soon for Legislative Action

no amount of careful and elaborate planning mechanism on a voluntary basis can forestall the waste, both in capital and operating expense implicit in a system which relies solely on economic sanctions," he said.

Jack Owen, president of the New Jersey Hospital Association, said the bill does not provide an appeal mechanism for hospitals that are turned down

on their construction application and Maraziti said the bill will be amended to meet this objection.

Owen also warned that unless the financial needs of the hospitals are recognized by the health commissioner and the board in establishing cost factors that will be included in any reimbursement formulas

the quality of health care could rapidly deteriorate.

He said depreciation costs and the cost of caring for indigent patients must be included in any discussion of rates.

In a statement Albert S. Kligge, legislative chairman of the New Jersey Nursing Home Association, objected to the broad definition of "medical care facility" which he said "lumps"

together a broad spectrum of institutions, some of which were never intended to provide medical care," including boarding homes, and intermediate care facilities.

Kligge also opposed transferring the licensing functions from the Department of Institutions and Agencies to the Health Department.

The State Medical Society won

the only apparent victory of the day when its suggested changes were accepted by Dumont at the outset of the hearing.

The bill, as written, empowers the health commissioner to act after "consultation" with the health care administration board and Dumont said he is considering changing it to "with the approval" of the board. This was

one of the medical society's recommendations.

Cowan also approved, saying he thinks it strengthens the bill.

**'State of the College'**  
HACKETTSTOWN — Dr. Edward W. Seay, president of Centenary College for Women, will speak April 1 at 10 a.m. on "The State of the College."



STATE OF NEW JERSEY  
OFFICE OF THE GOVERNOR  
TRENTON

RICHARD J. HUGHES  
GOVERNOR

SPECIAL MESSAGE ON HEALTH

To the Legislature:

In my Annual Message of January 14, I discussed the need for firm and decisive action by private citizens and government alike to improve our performance in the delivery of health services to the people of this State. I noted that despite the proud record in many sectors that skilled health professionals and dedicated private citizens alike have enabled this State to compile -- a record for which we have reason to be grateful -- a host of critical problems have arisen that require new State action.

To this end I set forth in my Annual Message a series of important proposals and indicated that further important recommendations would be forthcoming in this special message. Let me first review the proposals for action that I placed before you in January and then proceed with the details of my further recommendations.

Increased State Aid to Local Health Agencies

For the past two years, the Department of Health has administered, on a formula basis, State equalization aid to local health districts. Two hundred eighty municipalities now receive these grants which can be used, at the discretion of the local health officer and board of health, to provide any one of 51 certified health services, such as environmental sanitation, communicable disease control, maternal and child health services, and treatment of chronic illness. Although the per capita aid has increased at the rate of \$.05 annually since its initiation in 1967 at \$1.50, these increases have kept up with neither rising costs nor the demand for local health services.

I have already requested in my Budget Message a \$700,000 increase in the appropriation for this grant program to increase the formula to \$1.80 per capita beginning January 1, 1970. I urge you to act favorably on this request so that local health departments can continue to improve their services to our communities.

Improved Health Services at the Local Level

It is clear that outbreaks of Hong Kong flu, and other threats to the public health, do not respect municipal boundaries. Yet present statutes tend to discourage the provision of local services by agencies that serve populations of sufficient size to justify needed expenditures for health personnel and equipment. In certain cases, county-wide or other regional organizations offer the potential of providing a more effective economic and administrative structure than may now exist. Accordingly, I support legislation to authorize -- though not require -- the establishment of county-wide health departments, strengthen the Regional Health Commission

Act, and amend procedures for the establishment of Consolidated Health Districts. Together these proposals will promote -- where prior law has tended to discourage -- effective joint efforts by communities to face common public health problems.

#### Expansion of the Crippled Children's Program

New Jersey has a proud history of voluntary and governmental efforts to help our people obtain necessary treatment and rehabilitation for crippling diseases which families could not otherwise provide by themselves. Our Crippled Children's Program last year provided 9,700 children with direct services in homes, hospitals, and convalescent facilities.

This program now extends to families whose children are afflicted with crippling conditions in 90 separate federal categories. In my Budget Message I requested an additional \$200,000 to broaden the scope of the Crippled Children's Program, and I urge your approval of this important request.

#### Renal Dialysis

The Department of Health, the Rehabilitation Commission, and private groups have worked hard to promote treatment of patients tragically afflicted with kidney disease. But many lives today are still lost because patients have lacked the large sums of money required for the purchase of life-giving care by means of renal dialysis -- a technique essential to those with chronic kidney disease. As heart-breaking as many diseases are, chronic kidney disease is especially tragic because death is predictable, and often absolutely certain on an individual basis, if renal dialysis is not provided.

I therefore request legislation, and a supplemental appropriation of \$300,000, for the Department of Health to establish a chronic renal disease program consistent with the Chronic Illness Act. These funds will provide training; grants or payments in approved centers for equipment, drugs, and supplies; and specialized health services to patients at home. With the establishment of this program, the Commissioner of Health will appoint an Advisory Committee on Chronic Renal Disease that will include representatives of the Regional Medical Program, the State Comprehensive Health Planning Council, and appropriate professional and public members.

#### Maternal and Infant Care

The infant mortality rate in New Jersey -- as we would expect -- has been declining steadily through the years. Nevertheless a number of our communities still show an alarming incidence of infant mortality, and in five cities -- Newark, Jersey City, Paterson, Trenton, and Atlantic City -- the rate is at least half again as high as the State average.

Yet we know that with highly focused health, social, and educational services provided under special maternal and infant care projects, this mortality rate can be greatly reduced. I ask you now to extend our efforts to prevent unnecessary death among young children and their mothers in New Jersey. To initiate this program I request a supplemental appropriation of \$400,000 for special maternal and infant care projects to be administered by the Department of Health in the five communities with the highest infant mortality rates. Where possible, federal matching funds will be obtained to maximize the effectiveness of these projects.

### Nurse Education and Retraining

Last year, thanks to the Nurse Scholarship Act of 1967 and the work of the Governor's Task Force on Nursing, the total number of active registered nurses in New Jersey increased by over 2,000. In addition, a special program to enable sub-professional ward personnel at State institutions to embark on nurse training at State expense while retaining full pay has shown encouraging results. Many graduates are in supervisory nursing positions, and two have attained the level of Assistant Director of Nurses.

In addition, nine community colleges have enrolled 700 students in nurse education programs, and two State colleges have established four-year degree programs. But the major potential source of nurses is the pool of more than 11,000 inactive registered nurses in New Jersey. Under a project conducted by the Department of Education with federal support, 600 such nurses have returned to practice. Federal funding of this important project has now terminated, however, and I therefore request a supplemental appropriation of \$75,000 so that it may continue.

### War Veterans Commission

New Jersey has established a proud record with the range of services that have been made available to our veterans. Experience at the two State residential facilities for veterans -- Vineland and Menlo Park -- indicates that the majority of veterans who seek service require special care because of disability or chronic illness.

Accordingly, a construction program has been initiated, together with federal matching funds, which will ultimately provide 400 nursing care beds. But these services would be more adequate and would take full advantage of federal funds if their administration were consolidated in present and future facilities, if they were based on uniform requirements for admission, and if they were part of a flexible program oriented to the individual needs of disabled veterans.

I therefore ask you to establish a War Veterans Commission in the Department of Institutions and Agencies that will explore ways to establish the following objectives:

- (1) A group of buildings at two mental hospitals in the State, one in South Jersey and one in North Jersey, should be provided for the care of over 900 mentally disturbed veterans who are now at various institutions throughout the State. Contracted medical services can thus be provided, and the State will be reimbursed by the Veterans Administration at the rate of \$5.00 per patient day.
- (2) An Alcoholic Treatment Unit should be established to assist those veterans afflicted with alcoholism. Following care in this special facility, veterans can be received at an appropriate residential facility.
- (3) Clinical services at the veterans' homes should be expanded to include not only the residents at the institution but also service-connected and non service-connected veterans from the community. Diagnostic work can be performed at these clinics and findings forwarded to the Veterans Administration to eliminate the long delay prior to actual required treatment in federal facilities.

I ask you to create this Commission to make still more effective our services to veterans.

### Improvement of Clinical Laboratories

The work of clinical laboratories is vital to the effective performance of our entire health care system. Such laboratories have scored major technical gains by employing new analytical techniques and automated equipment. But the maintenance of a consistently high level of accuracy and quality control, which are essential to first-rate medical treatment, remains, in some cases, difficult of achievement.

Laboratories have been regulated since 1943 by the Bio-Analytical Laboratories and Laboratory Directors Act. Physicians and laboratory groups have developed voluntary systems of self-evaluation, and the Department of Health has played an active role in evaluation, training, and development of new tests and other techniques.

But further improvement is required, and I therefore ask you to pass a new Laboratory Improvement Act that will enable New Jersey to achieve consistent excellence in this field.

### Commission for the Blind and Visually Handicapped

The health of the people of this State is the concern of a host of public and private agencies that do superb -- and largely unsung -- humanitarian work. Such an agency is the Commission for the Blind, which goes about its work with a quiet efficiency and dignity that those familiar with it find inspirational.

To recognize the assistance that the Commission provides to those whose sight is severely impaired, as well as to the blind, I ask you to redesignate it as the Commission for the Blind and Visually Handicapped.

### Health Care Administration

In July of 1965, after Blue Cross subscriber rates had been raised six times in a period of nine years, I appointed the Governor's Committee to Study Blue Cross in New Jersey, which became popularly known as the Ward Committee after its eminent Chairman, Mr. William F. Ward.

This Committee, composed of highly respected members of the health professions, organized labor, the insurance industry, and consumer groups, conducted an exhaustive examination of rising health care costs. In January 1967, the Ward Committee reported, concluding that the increase in Blue Cross rates is a direct result of sharply rising hospital costs. The Committee further concluded that these costs, while in large measure attributable to improved health services and a greater public demand for those services, are also partly the result of certain inefficiencies in the administration and organization of hospital facilities. The Committee recommended the establishment of "a powerful agency having general supervisory responsibility over hospitals."

The New Jersey Hospital Association has long recognized the need for the improved administration of health care facilities and has endeavored to control ever-mounting hospital costs. In the two years since the Ward Committee report, and my consequent recommendation for legislation establishing a State agency with broad supervisory authority over hospitals, the Association has voluntarily taken a number of significant steps.

For example, the Association is now operating a shared-time computer project, which provides hospitals with management information on hours worked by department, overtime, turnover, etc. Nine industrial engineers have been employed to advise the various member hospitals of the Association. Furthermore, the Association has embarked on group purchasing and group insurance and is about to launch a program of budget review. Finally, the Association has supported legislation to require the issuance of certificates of need. All of these efforts are highly commendable and should be encouraged. Yet they have not been able to check the steady upward spiral of hospital costs.

When the Ward Committee reported in 1967, the average cost of a hospital day in New Jersey was \$45. Today the average cost exceeds \$60 following a climb of about 15% per year. The 1975 figure is expected to exceed \$100. Moreover, we have been advised that still another request for increased rates for Blue Cross coverage will be forthcoming.

It is now clear, I believe, that voluntary cost control efforts -- as important and praiseworthy as they are -- are not enough. I now therefore repeat my recommendation for the creation of a State agency to assist voluntary hospitals in cost control. This action is all the more important in view of the imminent initiation of the Medicaid program, which will cost the taxpayers of this State millions of dollars in the years ahead. We must ensure our taxpayers a full measure of value for each dollar spent in the Medicaid program.

This Legislature, concerned with the potential cost of Medicaid, chose to enact the narrowest program that the federal law would permit. You chose to eliminate from coverage many poor persons, a number of our older citizens, and all of those persons of modest income who might be struck by catastrophic medical expenses. I have made my views on this action clear on many occasions. Let me simply state here that having economized at the expense of the legitimate health needs of the people of this State, the Legislature should not now shrink from action to achieve essential economies through the elimination of inefficiencies in the delivery of health care.

I therefore ask you to establish, within the Department of Health, a Division of Health Care Administration, which shall have the following responsibilities relating to hospital costs:

1. Establish a uniform cost accounting system for hospitals.
2. Review the budget of each hospital facility and receive periodic expenditure reports.
3. Certify a state-approved non-profit third-party level of reimbursement for each hospital.
4. Ensure, in conjunction with the Commissioner of Banking and Insurance, that in every instance that a general rate increase for health insurance is sought, the public interest will be protected by a rate defender. This proposal is consistent with my recommendation to you in January, in the Bill of Rights for New Jersey Consumers, that a rate counsel be appointed to defend the public in all insurance rate increase cases that, in the opinion of the Commissioner of Banking and Insurance, have substantial impact on the premium-paying public. The cost of the defender should be paid by the industry requesting the rate increase in a manner similar to the present practice in public utility rate applications.

5. Analyze hospital costs and make recommendations with respect to occupancy rates; elimination of duplication of equipment; more effective utilization of physical plants; expansion of out-patient care; joint purchasing and joint use of laundry and other facilities. Such efforts by the Division will, of course, be carried out in full and close cooperation with the New Jersey Hospital Association and its members, whose vigorous and independent efforts -- to their credit -- have already begun to focus attention on this difficult problem.

#### Certificate of Need

In addition, the Division of Health Care Administration should be empowered to issue certificates of need for the construction or substantial enlargement of health facilities -- but only after approval, in the first instance, has been given by the regional and State Health Facilities Planning Councils, and only after the State agency has certified the need. An unoccupied hospital bed costs three-fourths as much to maintain as does an occupied bed, and similar diseconomies involving expensive and sophisticated equipment can result from unnecessary duplication of facilities. Herein lies the importance of this program, especially in view of the rapid rise of hospital costs.

Consistent with this program, I recommend the transfer of responsibility for the administration of the Hill-Burton program from the Department of Institutions and Agencies to the new Division.

#### Consolidation of Licensing

Furthermore, I recommend that the new Division should assume full responsibility for licensing of health care facilities. This proposal, which accords with the recommendations of the Commission on Efficiency and Economy in State Government, would consolidate standards, personnel, and inspection procedures that at present operate in both the Department of Health and the Department of Institutions and Agencies.

#### Health Economics Unit

There should also be established within this Division a new Bureau of Health Economics to set rates for all State programs which purchase health services from providers. The current practice, according to which several State health program administrators separately set the level of reimbursement for their respective programs, has led to certain disparities in payment levels, and some confusion, as administrators have negotiated and renegotiated reimbursement scales.

The Bureau of Health Economics will undertake a continuous evaluation of the reimbursement structure for health services and promulgate rates binding on all State agencies. The final rates of payment will be established by the Commissioner of Health and approved by the State Treasurer. There will also be established an Interdepartmental Committee on Health Economics, with representatives of all State agencies involved in the purchase of health care, to advise the Health Economics Unit on any changes in the reimbursement structure.

#### Health Services Research and Demonstration Program

Finally, the new Division should encourage innovation and improvement in the delivery of health services, particularly ambulatory services for the poor. In my Moral Recommitment message of last April, I requested funds for the development

of neighborhood health centers in poor communities in view of the severe health problems of many of our hard-pressed urban and rural areas.

The urgency of this program can be seen from the fact that New Jersey's twenty-one major cities with more than 50,000 residents contain 30.3% of the State's population but 66% of all illegitimate births, 43% of infant deaths (deaths under one year), 36% of heart disease deaths, 35% of cancer deaths, 35% of deaths due to stroke, 57% of tuberculosis deaths, and 41% of diabetes deaths.

Morbidity rates per 100,000 population for tuberculosis and syphilis are also far greater for the 21 cities. Tuberculosis rates were 38.8 for the 21 cities, 20.6 for the entire State, and 12.6 for the remaining 546 municipalities; syphilis rates were 106.5 for the 21 cities, 54.3 for the State, and 31.6 for the remaining 546 municipalities.

These tragic statistics clearly demonstrate that the poor simply lack adequate health services. The Medicaid program which you approved last year -- limited though it is -- represents a beginning in providing a payment mechanism for services for the poor. But additional facilities and manpower are also essential.

Indeed, unless we devise improved ways to utilize both facilities and manpower, Medicaid expenditures will fail to deliver a full return in the improvement of health care and may well have an inflationary impact on the health care system as a whole.

The Health Services Research and Demonstration Program will therefore act to stimulate innovation and improvement in the delivery of health services, with particular -- but by no means exclusive -- reference to the low-income population. The program will formulate new approaches to out-patient care and grant funds and technical assistance to innovative forms of delivery of health services that have potential for improved care and reduced costs. Although priority in the use of these funds will go to neighborhood health centers and expanded outpatient services in hospitals, other forms of delivering better care will also be explored.

Last year you denied the request contained in my Moral Recommitment message to embark on a program of this kind. I note, however, that the current report of the Joint Appropriations Committee has included \$300,000 for the neighborhood health centers program. While this figure is less than half the sum I requested a year ago, I nevertheless urge you to support this recommendation, which will permit, on a limited basis, the initiation of this essential program during the next fiscal year.

#### Hunger and Malnutrition

Hunger and malnutrition, as all of us know, do exist in this country to a surprising and alarming degree. We know as well of the relationship between malnutrition, on the one hand, and maternal and infant mortality, mental retardation, and other tragic disabilities, on the other.

We in New Jersey have made important progress in the fight against hunger and malnutrition. The Food Stamp program, which was non-existent before 1966, is projected to become effective in all 21 counties by the end of the year. This program will provide up to 200,000 persons per month with a food purchasing bonus of about \$1.2 million. The Commodity Distribution program now serves 462,730 children in 1,312 schools; 40,164 residents of various institutions; and 14,540 welfare

recipients in those counties which have yet to implement the Food Stamp program. In addition, the Department of Health has long sponsored a number of programs to reduce hunger among the poor, especially the elderly.

Notwithstanding these important programs, we must remain vigilant to hunger and malnutrition in this State wherever they may exist. To this end I have directed the appropriate State agencies -- including the Departments of Agriculture, Education, Institutions and Agencies, Treasury, and Health -- to take full advantage, where necessary, of all new federal initiatives in this field.

Moreover to determine the precise nature of hunger and malnutrition problems in New Jersey, I ask you to appropriate the sum of \$75,000 to enable the Commissioner of Health to initiate a comprehensive survey of nutritional needs in this State. This survey would be undertaken in cooperation with the National Nutrition Survey which is being sponsored by the Surgeon General of the United States. I shall request the Commissioner, on the basis of this survey, to recommend to you any necessary further steps to ensure success in our efforts to combat hunger and malnutrition.

#### Problems in Environmental Health

I call your attention to three problem areas in environmental health that require your serious attention:

(1) With respect to water pollution, I am pleased to note that the Legislature appears to be generally supportive of the major bond issue referendum for water pollution that I have asked you to place before the people in November. I trust that you will shortly complete final action on this Pure Waters Bond Issue and that a strong bipartisan campaign for approval of this essential program will follow.

Let me note with respect to our air pollution control program that I remain extremely proud of the progress registered by the Division of Clean Air and Water in the Department of Health in carrying out the historic Air Pollution Control Act of 1967. I reviewed for you in my Annual Message the Division's progress under this law, which is the most rigorous such legislation in the nation, and I am pleased to report that this outstanding progress continues.

(2) With respect to solid waste disposal, you are familiar with my several crucial recommendations that deal with regulation of the garbage industry by the Public Utilities Commission and the Department of Health. I cannot emphasize too strongly the importance of immediate action on these measures, and I trust that no obstacle will be placed in the way of passage of these bills before your forthcoming adjournment. These measures are simply too essential to the well-being of the people of this State to brook any delay, and I therefore look to you for prompt action.

In this regard I also call your attention to the importance of the Solid Waste Study Commission that I have proposed. Through this Commission the Department of Health, together with other agencies of State government, can make a major contribution to the solution of disposal problems by means of new technologies, and I look forward to your strong support for its efforts.

(3) With respect to the use of pesticides, I note for your information the establishment of an advisory council to recommend policies and coordinate programs among State agencies relating to the use of pesticides and other chemicals which may have harmful effects if used indiscriminately. This council will include representatives from the Departments of Health, Conservation and Economic Development, and Agriculture as well as from other public agencies, private conservation groups, and the Legislature.

The proper use of pest control programs is important to the continued prosperity of agriculture in New Jersey, to the protection of the health of our citizens, and to the conservation of our outdoor recreation resources. But, as the most urban state in the nation, New Jersey must also be especially alert to any potential disturbances of natural ecological balances. The advisory council will examine these issues with care and will recommend any necessary legislation.

#### State Comprehensive Health Planning Council

The proposals that I have set forth in this special message are, in my judgment, of the highest importance and merit your close attention during the months ahead. There remain, of course, many other important issues that require your continuing concern. I have in mind, for example, your strong budgetary support of the varied health programs conducted by several departments and agencies of State government.

In this connection I cannot emphasize too strongly the high regard I feel -- and that I believe you should feel -- for the outstanding work of the many hundreds of skilled professionals and employees who operate our health programs, and also for the scores of selfless and dedicated citizens who serve without compensation as members of boards and commissions that oversee the entire range of our health efforts.

These skilled professionals and concerned citizens, like those who are not directly connected with State government, face a host of challenges in the months and years ahead in their efforts to improve the quality of health care available to all of our citizens. Consider, for example, the question of adequate health facilities. Our hospitals are at present caught in a severe squeeze between the immense costs of new construction and modernization, on the one hand, and the great need for this construction, on the other. At the same time, the Nixon administration has ordered a substantial cut in the federal Hill-Burton program and has thereby made this squeeze all the tighter. Some new State action -- perhaps some kind of construction assistance involving direct aid and/or guaranteed loans -- would seem to be in order.

Similar acute problems confront us with respect to a wide range of issues in health manpower, finance, administration, and planning. The distinguished Roundtable on Health Policies of the Woodrow Wilson School of Princeton University has correctly pointed to the need for a careful and continuing review of all of these issues, and I have requested the State Comprehensive Health Planning Council, working in close cooperation with all relevant State and private agencies, to focus its attention on these critical issues and submit firm recommendations for action.

With vigorous and continuing effort of this kind -- and with your action on the measures that I have placed before you today -- I am convinced that we can together fulfill our crucial obligations to the people of this State in the health field.

Respectfully,

  
GOVERNOR

April 28, 1969