

55:13B-1 to 55:13B-16

LEGISLATIVE HISTORY CHECKLIST

55:13B-1 to 55:13B-16; 30:1A-2; 26:2H-1 et al.;
HCSA 30:11A-1 et al.; 44:7-87; 44:7-93 ("Rooming and Boarding House Act of 1979")

LAYS OF 1979 CHAPTER 496

Bill No. S3111

Sponsor(s) Scardino

Date Introduced Feb. 20, 1979

Committee: Assembly Institutions, Health and Welfare

Senate Institutions, Health and Welfare

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly July 16, 1979

Senate May 24, 1979

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Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly Yes

Senate Yes 4-23-79 & 5-10-79

Fiscal Note ~~Yes~~ No

Veto message Yes

Message on signing Yes

Following were printed:

Reports Yes

Hearings Yes

Senate Committee minutes of meetings held 11-30-78, 1-4-79, 1-25-79, 2-22-79 & 3-29-79 as mentioned in Senate Committee Statement (attached)

(over)

2/1/79
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- 974.90 New Jersey. Commission of Investigation.
H434 Report and recommendations...on abuses
1978k and irregularities in New Jersey's boarding
home industry...November, 1978. Trenton, 1978.
- 974.90 New Jersey. Health Commissioner's Advisory Committee
H434 on Sheltered Boarding Homes.
1978 Finds and recommendations...February 23, 1978.
Trenton, 1978.
- 974.90 New Jersey. Legislature. Senate. Institutions,
H434 Health and Welfare Committee.
1978h Public hearings...on recommendations to curb
boarding home problems and abuses, held 7-26-78.
Trenton, 1978.
- 974.90 New Jersey. Cabinet Task Force on Boarding Homes.
H434 Report. Trenton, 1978.
1978u

CHAPTER 496 LAWS OF N. J. 19 79
APPROVED 2-29-80 L. I. V.

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SENATE, No. 3111

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1979

By Senators SCARDINO, HAMILTON, A. RUSSO, HAGEDORN,
VREELAND, FELDMAN and HERBERT

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning rooming houses, boarding houses and residential health care facilities, providing for inter-departmental cooperation in serving the needs of the residents thereof, amending the title of "An act requiring the approval, inspection and regulation of certain types of boarding homes, rest homes and other homes for the sheltered care of four or more adult persons, which provide personal care or service beyond food, shelter and laundry; providing for standards and regulations and penalties for violation thereof, and supplementing Title 30 of the Revised Statutes," approved July 2, 1953 (P. L. 1953, c. 212), as said title was amended by P. L. 1964, c. 147, so that the same shall read "An act requiring the approval, inspection and regulation of residential health care facilities for four or more adult persons, which provide personal care or service beyond food, shelter and laundry; providing for standards and regulations and penalties for violation thereof, and supplementing Title 30 of the Revised Statutes," amending the body of said act, amending and supplementing P. L. 1971, c. 136, amending P. L. 1977, c. 238 and P. L. 1972, c. 29, amending and supplementing P. L. 1973, c. 256 ***[and]*** ***,*** supplementing Title 30 of the Revised Statutes*, and making an appropriation*.

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

1 1. This act shall be known and may be cited as the "Rooming
2 and Boarding House Act of 1979."

1 2. The Legislature hereby finds and declares that:

2 WHEREAS, Numerous citizens of this State reside in rooming and
3 boarding houses which are either infrequently supervised or

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

4 completely unsupervised, unlicensed and unregulated by the State
5 and by other governmental bodies; and

6 WHEREAS, The residents of such facilities are predominantly
7 elderly, disabled and poor, many of whom need social, personal
8 and financial services, protection from building hazards and
9 protection from unscrupulous and predatory neighbors; and

10 WHEREAS, *There is a need to* ***[learn what are]*** *ascertain** the
11 costs and resources of facilities ***[presently]*** *currently** li-
12 censed by the State and known as boarding homes for sheltered
13 care, so as to determine whether and under what conditions the
14 number of such homes ***[may]*** *should** be increased and their
14A standards of care raised; and

15 WHEREAS, It is incumbent upon the government of this State to
16 determine whether the residents of rooming houses, boarding
17 houses, and currently licensed boarding facilities are in need
18 of special services, care or treatment and might profit from
19 ***[closer attention or transferral to other facilities]*** *referral*
19A *to existing or available community agencies or alternative living*
19B *arrangements**; and

20 WHEREAS, ***[It is necessary to apportion responsibility]*** *Several*
20A *State agencies have different yet appropriate responsibilities**
21 for *protecting** the health, safety and welfare of the residents
22 of rooming houses, boarding houses and residential health care
23 facilities ***[among more than one agency of State and Local gov-**
23A **ernment]*** *and it is necessary that there be coordination among*
23B *these agencies for the cost-effective fulfillment of their respec-*
23C *tive responsibilities**.

24 This remedial legislation is therefore necessary to provide for
25 the health, safety and welfare of all those who reside in rooming
26 and boarding houses in this State, promote the growth and con-
27 tinued improvement of boarding homes for sheltered care, to be
28 known henceforth as residential health care facilities, ***[and]*** to
29 ensure that all agencies of this State work in unison for the protec-
30 tion and care of the residents of rooming houses, boarding houses
31 and residential health care facilities*, *and to ensure that needed*
32 *social and remedial services are made available to the residents of*
33 *such facilities through the efforts of county welfare boards**.

1 3. (New section) As used in this act:

2 a. "Boarding house" means any building, together with any
3 related structure, accessory building, any land appurtenant thereto,
4 and any part thereof, which contains two or more units *of dwell-*
4A *ing space arranged or intended for single room occupancy, exclu-*
4B *sive of any such unit occupied by an owner or operator,** and

5 wherein personal or financial services are provided to the residents,
 6 including any residential hotel or congregate living arrangement,
 7 but excluding any hotel, motel or established guest house wherein
 8 ***[all]*** a minimum of 85% of the units of dwelling space
 9 are offered for limited tenure only, any foster home as defined
 10 in section 1 of P. L. 1962, c. 137 (C. 30:4C-26.1), any community
 11 residence for the developmentally disabled as defined in section 2
 12 of P. L. 1977, c. 448 (C. 30:11B-2)* any dormitory owned or oper-
 13 ated on behalf of any nonprofit institution of primary, secondary
 14 or higher education for the use of its students, *and* any build-
 15 ing arranged for single room occupancy wherein the units of
 15A dwelling space are occupied exclusively by students enrolled in a
 15B full-time course of study at an institution of higher education ap-
 15C proved by the Department of Higher Education*, and any facility
 15D or living arrangement operated by, or under contract with, any
 15E State department or agency, upon the written authorization of the
 15F commissioner*.

16 b. "Commissioner" means the Commissioner of the Department
 17 of Community Affairs.

18 c. "Financial services" means any assistance permitted or re-
 19 quired by the commissioner to be furnished by an owner or operator
 20 to a resident in the management of personal financial matters,
 21 including, but not limited to, the cashing of checks, holding of
 22 personal funds for safekeeping in any manner or assistance in the
 23 purchase of goods or services with a resident's personal funds.

24 d. "Limited tenure" means residence at a rooming or boarding
 25 house on a temporary basis, ***for a period lasting no more than
 26 90 days.*** when a resident ***either*** maintains a primary
 27 residence at a location other than the rooming or boarding
 28 house***[.]*** or intends to establish a primary residence at such
 29 a location and does so within 90 days after taking up original
 29A residence at the rooming or boarding house.

30 e. "Operator" means any individual who is responsible for the
 31 daily operation of a rooming or boarding house.

32 f. "Owner" means any person who owns, purports to own, or
 33 exercises control of any rooming or boarding house.

34 g. "Personal services" means any services permitted or re-
 35 quired to be furnished by an owner or operator to a resident, other
 36 than shelter, including, but not limited to, meals or other food ser-
 37 vices, and assistance in dressing, bathing or attending to other
 38 personal needs.

39 h. "Rooming house" means a boarding house wherein no per-
 40 sonal or financial services are provided to the residents.

41 i. "Single room occupancy" means an arrangement of dwelling
 42 space which does not provide a private, secure dwelling space
 43 arranged for independent living, which contains both the sanitary
 44 and cooking facilities required in dwelling spaces pursuant to the
 45 "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A-1
 46 et seq.), and which is not used for limited tenure occupancy in a
 47 hotel, motel or established guest house, regardless of the number
 48 of individuals occupying any room or rooms.

49 j. "Unit of dwelling space" means any room, rooms, suite, or
 50 portion thereof, whether furnished or unfurnished, which is occu-
 51 pied or intended, arranged or designed to be occupied, for sleeping
 52 or dwelling purposes by one or more persons.

1 4. (New section) The commissioner, to effectuate the provisions
 2 and purposes of this act, shall have the power to:

3 a. Promulgate and amend rules and regulations in accordance
 4 with the Administrative Procedure Act, P. L. 1968, c. 410
 5 (C. 52:14B-1 et seq.);

6 b. Establish standards governing safety, security, record-
 7 keeping, living conditions and services in rooming and boarding
 8 houses;

9 c. Issue, suspend and revoke licenses for rooming and boarding
 10 houses;

11 d. Enter and inspect any such facility without prior notice and
 12 review such records as may be required pursuant to this act;

13 e. Establish standards for the building, conversion and renova-
 14 tion of all such facilities;

15 f. Enforce the provisions of this act by entering complaints
 16 against any person in violation thereof through administrative
 17 proceedings and civil actions in State and local courts*****[** asses-
 18 sing**]***** ****for injunctive relief and for the assessment of****
 19 penalties, ****[compromising and settling]*** ****compromise and*
 20 *settle**** any penalties in such amounts as he may determine to
 21 be equitable under the circumstances of the violation, and ****[tak-*
 21A *ing]*** ****take**** such other action as he may deem necessary in
 21B accordance with the provisions of this act;**

22 g. Issue subpoenas to compel attendance at any hearing in any
 23 part of the State, and the presentation of such reports, documents,
 24 books and papers as he may deem necessary;

25 h. Institute an in rem action against **[the]** property, or a
 26 quasi in rem action against the owner by attachment of a property
 27 followed by service by publication, in connection with violations of
 28 the provisions of this act, in cases where the owner, after diligent
 29 effort, cannot be served; and

30 i. Hold and exercise all the rights and remedies available to
 31 a judgment creditor where a judgment ~~*[arises]*~~ **is entered**
 32 against an owner or operator as a result of a penalty action or
 33 administrative action taken pursuant to enforcement of this act.

1 5. (New section) a. In promulgating any regulations pursuant
 2 to the provisions of this act, the commissioner may make distinc-
 3 tions among types of rooming and boarding houses according to
 4 the age, size, type of construction or nature of ownership of the
 5 facility and the type of services offered or limitations on occupancy
 6 therein.

7 b. Upon application of an owner, the commissioner may waive,
 8 modify or postpone the application of a regulation to the owner's
 9 facility, provided, however, that no such waiver, modification or
 10 postponement shall be granted unless the commissioner shall find
 11 that (1) Strict compliance with a regulation would result in undue
 12 hardship for residents of the facility, and (2) If granted, it would
 13 not unreasonably jeopardize the welfare of residents or of the
 14 public at large.

1 6. (New section) The commissioner shall establish standards to
 2 ensure that every rooming and ~~*[boardng]*~~ **boarding** house in
 3 this State is constructed and operated in such a manner as will
 4 protect the health, safety and welfare of its residents **and at the*
 5 *same time preserve and promote a homelike atmosphere appropri-*
 5A *ate to such facilities**, including, but not limited to, standards to
 5B provide for the following:

6 a. Safety from fire;

7 b. Safety from structural, mechanical, plumbing and electrical
 8 deficiencies;

9 c. Adequate light and ventilation;

10 d. Physical security;

11 e. Protection from harassment, fraud and eviction without due
 12 cause;

13 f. Clean and reasonably comfortable surroundings;

14 g. Adequate personal and financial services rendered in boarding
 15 houses;

16 h. Disclosure of owner identification information;

17 i. Maintenance of orderly and sufficient financial and occupancy
 18 records;

18A **j. Referral of residents, by the operator, to social service and*
 18B *health agencies for needed services;**

19 ~~*[j.]*~~ **k.** Assurance that no constitutional, civil or legal right
 20 will be denied solely by reason of residence in a rooming or board-
 21 ing house;

22 *~~l.~~ Full and free]* *l. Reasonable* access for employees of
 23 public and private agencies*,* and *reasonable access* for *~~all~~*
 24 *other* citizens *~~whose purpose is to render personal, social and~~*
 25 legal services to persons residing in rooming and boarding houses]*
 26 *upon receiving the consent of the resident to be visited by them* ;
 27 and

28 *~~l.~~* *m.* Opportunity for each resident to live with as much
 29 independence, autonomy and interaction with the surrounding
 30 community as he is capable of.

1 7. (New section) a. No person shall own or operate a rooming
 2 or boarding house, hold out a building as available for rooming
 3 or boarding house occupancy, or apply for any necessary construc-
 4 tion or planning approvals related to the establishment of a
 5 rooming or boarding house without a valid license to own or
 6 operate such a facility, issued by the commissioner.

7 Any person found to be in violation of this subsection shall be
 8 liable for a civil penalty of *not more than* \$5,000.00 for each
 9 building so owned or operated.

10 b. The commissioner shall establish separate categories of
 11 licensure for owning and for operating a rooming or boarding
 12 house, provided, however, that an owner who himself operates
 13 such a facility need not also possess an operator's license.

14 If an owner seeking to be licensed is other than an individual, the
 15 application shall state the name of an individual who is a member,
 16 officer or stockholder in the corporation or association seeking to
 17 be licensed, and the same shall be designated the primary owner
 18 of the rooming or boarding house.

19 Each application for licensure shall contain such information
 20 as the commissioner may prescribe and shall be accompanied by
 21 a fee established by the commissioner which shall not be less than
 22 \$75.00 nor more than \$150.00. If, upon receipt of ***~~said~~***
 23 ***~~the~~*** fee and a review of the application, the commissioner
 24 determines that the applicant will operate, or provide for the
 25 operation of, a rooming or boarding house in accordance with the
 26 provisions of this act, he shall issue a license to him.

27 Each license shall be valid for 1 year from the date of issuance,
 28 but may be renewed upon application by the owner or operator
 29 and upon payment of the same fee required for initial licensure.

30 c. Only one license shall be required to own a rooming or board-
 31 ing house, but an endorsement thereto shall be required for each
 32 separate building owned and operated or intended to be operated
 33 as a rooming or boarding house. Each application for licensure

34 or renewal shall indicate every such building for which an endorse-
 35 ment is required. If, during the term of a license, an additional
 36 endorsement is required or an existing one is no longer required,
 37 ***[then]*** an amended application for licensure shall be sub-
 38 mitted.

1 ***[d.]*** **8. (New section)** Each operator of a rooming or board-
 2 ing house shall reside in the facility and shall be responsible for
 3 accepting service of any notices or orders issued by the commis-
 4 sioner pursuant to the provisions of this act. If an operator resigns,
 5 is dismissed or is otherwise unavailable to carry out his responsi-
 6 bilities, then the primary owner shall be deemed to be the operator
 7 of the facility until such time as the commissioner is notified of the
 8 appointment of a new operator*, and shall have the same responsi-
 9 bilities and be subject to the same penalties otherwise prescribed
 10 for an operator under the provisions of this act*.

1 ***[8.]*** **9.* (New section)* The commissioner shall ensure that
 2 each rooming or boarding house whose owner possesses a valid
 3 license is inspected and its records reviewed at least once each year
 4 for the purpose of determining whether the owner or operator is
 5 complying with standards promulgated pursuant to the provisions
 6 of this act. If the commissioner determines, as a result of any
 7 such inspection and review of records, that an owner or operator
 8 is in violation of such standards, ***[then]*** he shall serve the
 9 owner or operator of the facility with a written notice thereof,
 10 which shall fix a date by which the owner or operator shall enter
 11 into compliance.

1 ***[9.]*** **10.* (New section)* a. No person shall: (1) Obstruct,
 2 hinder, delay or otherwise interfere with any action of the commis-
 3 sioner in the exercise of any power or duty under the provisions of
 4 this act; (2) Prepare, utter or otherwise render any false statement,
 5 application, report or document which is permitted or required
 6 pursuant to this act; or (3) Refuse to comply with any ruling,
 7 order, notice or action made by the commissioner pursuant to the
 8 provisions of this act.

9 b. Any person who violates any provision of subsection a.
 10 above shall be liable for a civil penalty of not less than \$50.00
 11 nor more than \$5,000.00 for each violation. Each day during which
 12 any person violates any such provision after the date fixed for
 13 termination of the violation in any order for termination issued
 14 by the commissioner, shall constitute an additional, separate and
 15 distinct violation, except during the time an appeal from such an
 16 order is taken or pending. If an administrative penalty order has
 17 not been satisfied within 30 days of its issuance, the penalty may

18 be sued for and recovered by the commissioner in a summary
19 proceeding in the Superior Court under the Penalty Enforcement
20 Law (N. J. S. 2A :58-1 et seq.).

21 e. The commissioner may suspend, cancel, revoke, or refuse
22 to issue any endorsements to the license of any owner or operator
23 who violates any provision of subsection a. above.

1 ***[10.]** *11.* (New section) ***a. *If, upon inspection of any*
2 *rooming or boarding house, the commissioner shall discover any*
3 *violation of the provisions of this act, or any rules or regulations*
4 *promulgated thereunder, which constitutes an imminent hazard*
5 *to the health, safety or welfare of the occupants or intended occu-*
6 *pants thereof, or of the public generally, the commissioner may*
7 *issue and cause to be served on the owner or operator thereof a*
8 *written order directing: (1) that the rooming or boarding house*
9 *be vacated forthwith or (2) that the violation be corrected within*
10 *the period specified in the order. The written order shall state the*
11 *nature of any violation, the date and hour by which the rooming*
12 *or boarding house be vacated or the violation be abated and, if*
13 *necessary, the manner in which the violation shall be abated. A*
14 *copy of the written order to vacate shall be sent to relevant county*
15 *and municipal officials within 24 hours of its issuance.*

16 *Upon the receipt by the commissioner of written notice from the*
17 *owner or operator of any rooming or boarding house vacated or*
18 *ordered to be vacated stating that the violation has been terminated,*
19 *the commissioner shall reinspect the rooming or boarding house*
20 *within one working day of the receipt of the notice. If, upon re-*
21 *inspection, the commissioner determines that the violation has been*
22 *terminated, he shall rescind the order requiring the vacation of the*
22A *rooming or boarding house and occupancy may be resumed forth-*
23 *with. If reinspection is not conducted by the commissioner within*
24 *one working day of the receipt of the notice, occupancy of the*
25 *rooming or boarding house may be resumed forthwith.*

26 *Where the owner or operator of any rooming or boarding house*
27 *denies that any violation justifying an order to vacate exists, he*
28 *may apply to the commissioner for a reconsideration hearing,*
29 *which shall be afforded and a decision rendered by the commissioner*
30 *within 48 hours of the receipt of the application for the hearing.*
31 *If the commissioner decides adversely to the owner or operator,*
32 *the owner or operator may petition the Superior Court of this*
33 *State for injunctive relief against any order of the commissioner*
34 *directing that the rooming or boarding house be vacated forthwith.*

35 *Relief may be sought by an order to show cause and may be*
36 *granted ex parte pending a hearing de novo, except that the only*

37 *issue to be determined in the hearing de novo shall be the existence*
 38 *of any violation of the provisions of this act, or rules and regula-*
 39 *tions promulgated thereunder, which constitutes an imminent*
 40 *hazard to the health, safety or welfare of the occupants or intended*
 41 *occupants of the rooming or boarding house, or to the public*
 42 *generally.*

43 *Where the owner or operator of any rooming or boarding house*
 44 *denies that any violation justifying an order to abate within a*
 45 *a specific period exists, the owner or operator may seek injunctive*
 46 *relief by an order to show cause, and relief may be granted ex parte*
 47 *pending a hearing de novo. However, the only issue to be deter-*
 48 *mined in the hearing de novo shall be the existence of any violation*
 49 *of the provisions of this act, or rules and regulations promulgated*
 50 *thereunder, which constitutes a hazard to the health, safety or*
 51 *welfare of the occupants or intended occupants of the rooming or*
 52 *boarding house, or to the public generally.****

53 ****b.**** If an owner or operator is found to be in violation of
 54 of any of the provisions of this act, and notice thereof has been
 55 served which also fixes a date by which any such violations shall be
 56 terminated, and such owner or operator fails to terminate such
 57 violations by such date, then the commissioner may take any of the
 58 following actions:

59 ****[a. Petition the Superior Court for mandatory injunctive re-*
 60 *lief. In any such proceeding the court may proceed in a summary*
 61 *manner or otherwise, and shall have the power to grant such*
 62 *temporary relief or restraining order as it may deem just and*
 63 *proper, and to make and enter a decree enforcing, modifying or*
 64 *setting aside in whole or in part any order issued by the com-*
 65 *missioner.]****

66 ****[b.]**** ****(1)**** Issue an order directing that the owner
 67 submit monthly reports to the commissioner, in a form prescribed
 68 by the commissioner, listing all payments received and expenditures
 69 made by him, in connection with the operation of any rooming and
 70 boarding house owned by him, received and or made by the operator
 71 or any agent or employee of any such facility. In addition, the
 72 commissioner may require said owner to report such payments and
 73 expenditures for any past period which the commissioner shall
 74 determine, and to provide statements of personal or corporate
 75 assets and worth.

76 During the term of any such order, the owner shall not increase
 77 the amount of any payment due from, or require any new payment
 78 or charge from, any resident of any rooming or boarding house

79 owned by him, without prior written approval from the commis-
80 sioner.

81 During the term of any such order, the commissioner may
82 direct that the owner make certain expenditures to terminate
83 violations of any provisions of this act, or may prohibit any
84 expenditure deemed by the commissioner to be not in the best
85 interests of the residents of any rooming or boarding house
86 belonging to the owner.

87 The commissioner shall rescind any such order whenever the
88 violations which caused the order to be issued, and any other
89 violations, have been terminated by the owner.

90 ***[c.]*** (2)*** Petition the Superior Court for an order
91 appointing a receiver for the rooming or boarding house of such
92 an owner. *The court may proceed in a summary manner and
93 may appoint as receiver a person* *It shall be a sufficient defense*
94 *to the proceeding if the owner establishes that the condition alleged*
95 *in the petition of the commissioner does not in fact exist or that*
96 *such condition has been remedied or that such condition, although*
97 *periodically remedied, has not habitually existed as pattern and*
98 *practice.*

99 *The court shall proceed in a summary manner and shall render*
100 *a judgment either: (1) Dismissing the petition; (2) Granting the*
101 *relief provided under subsection a. above or directing the commis-*
102 *sioner to issue an order as provided under subsection b. above; or*
103 *(3) Appointing a receiver* from a list of nominees submitted by*
104 *the commissioner or any other responsible person *or per-*
105 *sons]* *; provided, however, that *no]* *the* owner or operator*
106 **of the home* shall *not* be so appointed.*

107 With the approval of the court, the receiver shall have the fol-
108 lowing powers: (1) To hire any consultants or to undertake any
109 studies of the rooming or boarding house which he deems appro-
110 priate; (2) To make any repairs, improvements or expenditures
111 he deems necessary to terminate conditions or violations specified
112 in the complaint; (3) To hire or discharge any employees, includ-
113 ing the operator; (4) To receive or expend in a reasonable and
114 prudent manner the revenues of the facility due on the date of, or
115 subsequent to, the entry of the court's judgment; (5) To continue
116 to operate the facility in accordance with all standards promul-
117 gated by the commissioner; (6) To perform all acts necessary or
118 appropriate to conserve the facility and to promote the health,
119 safety and welfare of its residents; and (7) To exercise such other
120 powers as he deems necessary or appropriate to implement the
121 court's judgment.

122 **The receiver may, in his discretion, either: (1) Assume the role*
123 *of operator; or (2) Direct the operator to take such actions as will*
124 *eliminate or recify the conditions specified in the petition.**

125 The court shall require the filing at periodic intervals of reports
126 of action taken by the receiver and of accounts itemizing revenues
127 and expenditures. Such reports shall be open to inspection by all
128 parties in the case. Upon motion of the court, the receiver, or the
129 owner, the court may require a presentation or settlement of the
130 accounts. Notice of a motion for presentation or settlement of
131 accounts shall be served on the owner and any party holding an
132 interest in such revenues and expenditures.

133 The commissioner, receiver or owner may make a motion to
134 terminate the receivership on the grounds that the conditions com-
135 plained of have been terminated. The court may thereupon imme-
136 dately terminate the receivership or terminate it subject to such
137 terms as it feels are necessary or appropriate to prevent the
138 conditions complained of from recurring.

139 The court shall allow from the revenues of the rooming or board-
140 ing houses a reasonable amount of compensation for the expendi-
141 tures and services of the receiver. The receiver may be required to
142 furnish a bond, the amount and form of which shall be approved
143 by the court, and the cost of which shall be borne by the owner.

144 During the time such receivership is in effect, the receiver shall
145 give priority to the termination of violations when determining the
146 expenditure of any income, and the court shall ensure that any
147 creditor aggrieved is satisfied only to the extent consistent with the
148 health, safety and welfare of the residents of the rooming or
149 boarding house. The receivership order shall remain in effect for
150 as long after the termination of any violations as is necessary for
151 the receiver to satisfy any creditors to whom payments were
152 deferred in order to make funds available to effect such termination.

153 During the period when the receivership order is in effect, any
154 action for possession initiated by any mortgage holder shall be
155 brought before the court having jurisdiction in the receivership
156 case and shall only be granted if it shall appear that the mortgage
157 holder, when in possession, will terminate or remove the violations
158 which caused the receivership order to be issued, and will operate
159 the facility in accordance with standards promulgated by the
160 commissioner.

161 No provision of this act shall limit the right of any owner to
162 sell or mortgage any facility subject to receivership under the
163 provisions of this section, provided, however, that the approval of
164 the court having jurisdiction shall first be required and shall be

165 granted only if it shall appear that the purchaser will terminate
 166 the violations which caused the receivership order to be issued and
 167 will operate the facility in accordance with standards promulgated
 168 by the commissioner, or if it appears that the granting of a mort-
 169 gage will materially contribute to the ability of the owner to
 170 terminate such violations.

171 During the period when the receivership order is in effect, the
 172 owner shall have the right to use assets not under the receiver's
 173 control to terminate such violations.

1 ***[11.]*** *12.* (New section) Notices or orders issued pursuant to
 2 this act shall be served upon the owner or operator by posting them
 3 by certified mail, return receipt requested, to the owner or operator
 4 of a rooming or boarding house or, if necessary, by leaving them
 5 with the owner or a person above the age of 14 at the owner's
 6 dwelling unit or place of business. The date of service shall be
 7 considered to be the third day after mailing or after the day the
 8 notice or order is left at the owner's dwelling unit or place of busi-
 9 ness.

1 ***[12.]*** *13.* (New section) Nothing in this act shall be con-
 2 strued to abrogate or impair the powers and duties of the commis-
 3 sioner under the "Hotel and Multiple Dwelling Law," P. L. 1967,
 4 c. 76 (C. 55:13A-1 et seq.) with respect to any hotel, motel or estab-
 5 lished guesthouse, or any dormitory owned or operated by any
 6 nonprofit institution of primary, secondary or higher education
 7 to provide housing for its students, or any multiple dwelling except
 8 those defined herein as rooming or boarding houses.

1 *14. (New section) No owner, operator or employee shall serve
 2 notice upon a resident to leave the premises, or take any other
 3 action in retaliation for: (a) The efforts of the resident or a person
 4 acting on his behalf to secure or enforce any rights under a contract,
 5 the laws of this State or any of its subdivisions, or the laws of the
 6 United States; or (b) The good faith complaint of a resident or a
 7 person acting on his behalf to a governmental authority concerning
 8 the owner, operator or employee's alleged violation of this act or
 9 any health or safety law, regulation, code or ordinance, or other
 10 law or regulation which has as its objective the regulation of
 11 rooming houses or boarding houses.*

1 ***[13.]*** *15.* (New section) a. Any *county or* municipality in
 2 this State may be authorized by the commissioner to perform such
 3 inspection within its corporate limits as may be necessary to carry
 4 out the provisions of this act, subject to the control and supervision
 5 of the commissioner and in accordance with any rules and regula-
 6 tions promulgated by him governing the conduct of such inspections.

7 Every *county or* municipality so authorized shall furnish the
8 commissioner with such reports and information as he may require.

9 b. No owner or operator subject to the provisions of this act
10 shall also be subject to regulation by any *county or* municipality of
11 this State for the same purpose or end, except for construction
12 regulations issued by a municipality pursuant to the "State Uni-
13 form Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-119
13A et seq.).

14 c. Any municipal tax assessor, tax collector, or official charged
15 with responsibility for enforcing a housing or property mainte-
16 nance ordinance or code, county recorder of deeds or local enforcing
17 agency established pursuant to the "State Uniform Construction
18 Code Act," shall ***[furnish to]*** *, *upon request of* the commis-
19 sioner *provide him with* such information as will assist him in
20 determining the location of any building or structure subject to
21 the provisions of this act.

1 ***[14.]* *16.*** (New section) If any section, subsection, paragraph,
2 sentence or other part of this act is adjudged unconstitutional or
3 invalid, such judgment shall not affect, impair or invalidate the
4 remainder of this act, but shall be confined in its effect to the sec-
5 tion, subsection, paragraph, sentence or other part of this act
6 directly involved in the controversy in which said judgments shall
7 have been rendered.

1 ***[15.]* *17.*** Title 30 of the Revised Statutes is supplemented
1A as follows:

2 (New section) Every executive ***[department]*** *department*
3 or agency of this State charged with administering any licensing,
4 inspection, enforcement, referral or placement program for residen-
5 tial health care facilities, rooming houses or boarding houses shall
6 cooperate fully, and coordinate its programs to the greatest extent
7 possible, with any other department or agency so charged.

8 In order to facilitate such cooperation and coordination, the
9 Commissioner of the Department of Human Services shall convene
10 quarterly meetings of a policy coordinating committee, which shall
11 consist of said commissioner, the Commissioners of the Depart-
12 ments of Community Affairs and Health and the Ombudsman for
13 the Institutionalized Elderly or their designated representatives,
14 and to which the Public Advocate, and representatives of such
15 other State and local agencies as may be designated by said com-
16 missioner, shall be invited to attend.

17 At meetings of the policy coordinating committee, and on a
18 continuous basis:

19 a. The Commissioner of Human Services shall, at a minimum:
 20 (1) Provide the Commissioners of Community Affairs and Health
 21 with such information **consistent with Federal law and regula-*
 22 *tions,** concerning the disbursement of Supplemental Security In-
 23 come checks***[,]*** under P. L. 1973, c. 256 (C. 44:7-85 et seq.), as
 23A may **be necessary to implement their duties under the provisions*
 23B *of this act and** prevent fraud and improper payment, and work
 24 with the Federal Government to ensure close supervision of the
 25 disbursement of such checks; (2) Refer complaints concerning
 26 services and conditions at residential health care facilities, room-
 27 ing houses and boarding houses to said commissioners, as appro-
 28 priate; and (3) Render services to residents of such facilities
 29 through its several divisions and by means of its responsibilities
 30 delegated to county welfare boards;

31 b. The Commissioner of Community Affairs shall, at a minimum,
 32 ***[consult with]*** **solicit recommendations from** the Commission-
 33 ers of Human Services and Health on the preparation of standards
 34 for rooming and boarding houses, **and when such recommendations*
 34A *are not adopted, inform said commissioners of the reasons there-*
 34B *for, notify said commissioners concerning any waiver, modification*
 34C *or postponement granted under the provisions of section 5 of this*
 34D *act, and** inform said commissioners as quickly as possible of any
 35 such facilities that have relinquished their licenses or had their
 36 licenses revoked, and of any serious violations of standards for
 37 such facilities;

38 c. The Commissioner of Health shall, at a minimum, ***[consult**
 39 **with]*** **solicit recommendations from** the Commissioners of Hu-
 40 man Services and Community Affairs on the preparation of stand-
 41 ards for residential health care facilities, **and when such recom-*
 42 *mendations are not adopted, inform the commissioners of the*
 42A *reasons therefor,** inform the ***[said]*** commissioners as quickly
 43 as possible of any such facilities that have relinquished their li-
 44 censes or had their licenses revoked, and of any serious violations
 44A of standards for such facilities; and

45 d. The Ombudsman for the Institutionalized Elderly shall, at
 46 a minimum, refer all complaints received concerning services and
 47 conditions at residential health care facilities, *****[rooming-**
 48 **houses]********* ****rooming**** and boarding houses to the Commis-
 49 sioners of Human Services, Community Affairs and Health.

1 ***[16.]*** ***18.*** P. L. 1971, c. 136 is supplemented as follows:

2 (New section) The Commissioner of the Department of Health
 3 shall, on a continuous basis, collect information concerning ***[the]***
 4 **all** costs and ***[resources]*** **revenues** of residential health care

5 facilities licensed pursuant to P. L. 1971, c. 136 (C. 26:2H-1 et seq.)
 6 so as to provide a means for the Legislature to determine whether
 7 it is advisable for the ***[department]*** **commissioneer** to set
 8 **variable** rates for payment to such facilities and whether
 8A ***[State]*** payments for Supplemental Security Income under
 9 P. L. 1973, c. 256 (C. 44:7-85 et seq.) for eligible residents of such
 10 facilities should be ***[periodically adjusted]*** **supplemented** in
 11 accordance with any such rates.

12 **One year following the effective date of this act, the commis-*
 13 *sioner shall submit a report to the Legislature's Joint Appropria-*
 14 *tions Committee and Standing Reference Committees on Institu-*
 15 *tions, Health and Welfare containing the information required*
 16 *herein to be collected.**

17 To ***[enable the commissioner to]*** collect information concern-
 18 ing the ****[*commissioner is authorized to conduct such field visits**
 19 **and audits as may be necessary, and the*]**** costs and resources of
 20 residential health care facilities, the ****commissioner is authorized**
 21 **to conduct such field visits and audits as may be necessary, and**
 22 **the**** owners of such facilities shall submit such reports, audits
 23 and accountings of cost as the commissioner may require by regu-
 24 lation*; *provided, however, that such reports, audits and account-*
 25 *ings shall be the minimum necessary to implement the provisions*
 26 *of this section*.*

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

3 1. It is hereby declared to be the public policy of the State that
 4 hospital and related health care services of the highest quality,
 5 of demonstrated need, efficiently provided and properly utilized
 6 at a reasonable cost are of vital concern to the public health. In
 7 order to provide for the protection and promotion of the health of
 8 the inhabitants of the State promote the financial solvency of hos-
 9 pitals and similar health care facilities and contain the rising cost
 10 of health care services, the State Department of Health, which has
 11 been designated as the sole agency in this State for comprehensive
 12 health planning under the "National Health Planning and Re-
 13 sources Development Act of 1974" (Federal Law 93-641), as
 14 amended and supplemented, shall have the central, comprehensive
 15 responsibility for the development and administration of the State's
 16 policy with respect to health planning, hospital and related health
 17 **care services** and health care facility cost containment programs,
 18 and all public and private institutions, whether State, county,
 19 municipal, incorporated or not incorporated, serving principally
 20 as **[boarding]** *residential health care facilities, nursing or matern-*

21 ity homes [or other homes for the sheltered care of adult persons]
22 or as facilities for the prevention, diagnosis, or treatment of human
23 disease, pain, injury, deformity or physical condition, shall be sub-
24 ject to the provisions of this act.*

1 ***[17.]*** *20.* Section 2 of P. L. 1971, c. 136 (C. 26:2H-2) is
2 amended to read as follows:

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

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

19 b. "Health care service" means the preadmission, outpatient,
20 inpatient and postdischarge care provided in or by a health care
21 facility, and such other items or services as are necessary for such
22 care, which are provided by or under the supervision of a physician
23 for the purpose of health maintenance organizations, diagnosis or
24 treatment of human disease, pain, injury, disability, deformity or
25 physical condition, including, but not limited to, nursing service,
26 home care nursing and other paramedical service, ambulance ser-
27 vice, service provided by an intern, resident in training or physician
28 whose compensation is provided through agreement with a health
29 care facility, laboratory service, medical social service, drugs, bio-
30 logicals, supplies, appliances, equipment, bed and board, but exclud-
31 ing services provided by a physician in his private practice or by
32 practitioners of healing solely by prayer, and services provided
33 first aid, rescue and ambulance squads as defined in the "New
34 Jersey Highway Safety Act of 1971," P. L. 1971, c. 351.

35 c. "Construction" means the erection, building, or substantial
36 acquisition, alteration, reconstruction, improvement, renovation,
37 extension or modification of a health care facility, including its
38 equipment, the inspection and supervision thereof; and the studies,

39 surveys, designs, plans, working drawings, specifications, proce-
40 dures, and other actions necessary thereto.

41 d. "Board" means the Health Care Administration Board
42 established pursuant to this act.

43 e. "Commission" means the Hospital Rate Setting Commission
44 established pursuant to this act.

45 f. "Government agency" means a department, board, bureau,
46 division office, agency, public benefit or other corporation, or any
47 other unit, however described, of the State or political subdivision
48 thereof.

49 g. "Statewide Health Coordinating Council" means the State-
50 wide Health Coordinating Council formed under the provisions
51 of Federal Law 93-641, as amended and supplemented.

52 h. "Health Systems Agency" means an officially recognized
53 health systems agency formed under the provisions of Federal Law
54 93-641 as amended and supplemented.

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

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

57 k. "Preliminary cost base" means that proportion of a hospi-
58 tal's current cost which may reasonably be required to be reim-
59 bursed to a properly utilized hospital for the efficient and effective
60 delivery of appropriate and necessary health care services of high
61 quality required by such hospital's mix of patients. The pre-
62 liminary cost base initially may include costs identified by the
63 commissioner and approved or adjusted by the commission as being
64 in excess of that proportion of a hospital's current costs identified
65 above, which excess costs shall be eliminated in a timely and
66 reasonable manner prior to certification of the revenue base. The
67 preliminary cost base shall be established in accordance with regu-
68 lations proposed by the commissioner and approved by the board.
69 l. "Certified revenue base" means the preliminary cost base
70 adjusted by the commission, as appropriate and necessary pursuant
71 to regulations proposed by the commissioner and approved by the
72 board, to provide for the financial solvency of a hospital which is
73 properly utilized and which delivers, effectively and efficiently,
74 appropriate and necessary health care services of a high quality
75 required by its mix of patients.

76 m. "Provider of health care" means an individual (1)
77 who is a direct provider of health care service in that the indivi-
78 dual's primary activity is the provision of health care services to
79 individuals or the administration of health care facilities in which
80 such care is provided and, when required by State law, the individual
81 has received professional training in the provisions of such services

82 or in such administration and is licensed or certified for such pro-
 83 vision or administration; or (2) who is an indirect provider of
 84 health care in that the individual (a) holds a fiduciary position with,
 85 or has a fiduciary interest in, any entity described in subparagraph
 86 b (ii) or subparagraph b (iv); provided, however, that a member
 87 of the governing body of a county or any elected official shall not be
 88 deemed to be a provider of health care unless he is a member of the
 89 board of trustees of a health care facility or a member of a board,
 90 committee or body with authority similar to that of a board of
 91 trustees, or unless he participates in the direct administration of
 92 a health care facility; or (b) received, either directly or through
 93 his spouse, more than one-tenth of his gross annual income for
 94 any one or more of the following:

- 95 (i) Fees or other compensation for research into or instruc-
 96 tion in the provision of health care services;
- 97 (ii) Entities engaged in the provision of health care services
 98 or in research or instruction in the provision of health care
 99 services;
- 100 (iii) Producing or supplying drugs or other articles for in-
 101 dividuals or entities for use in the provision of or in research
 102 into or instruction in the provision of health care services;
- 103 (iv) Entities engaged in producing drugs or such other
 104 articles.

105 n. "Private long-term health care facility" means a nursing
 106 home, skilled nursing home or intermediate care facility presently
 107 in operation and licensed as such prior to the adoption of the 1967
 108 Life Safety Code by the State Department of Health in 1972 and
 109 which has a maximum 50-bed capacity and which does not accom-
 110 modate Medicare or Medicaid patients.

1 *~~[18.]~~* *21.* Section 15 of P. L. 1971, c. 136 (C. 26:2H-15) is
 2 amended to read as follows:

3 15. Whenever a ~~[boarding home for sheltered care]~~ *residential*
 4 *health care facility*, boarding house or ~~[rest home or facility or~~
 5 ~~institution of like character]~~ *rooming house*, not licensed here-
 6 under, by public or private advertising or by other means holds
 7 out to the public that it is equipped to provide post-operative or
 8 convalescent care for persons mentally ill or mentally retarded
 9 or who are suffering or recovering from illness or injury, or
 10 who are chronically ill, or whenever there is reason to believe
 11 that any such facility or institution, not licensed hereunder, is
 12 violating any of the provisions of this act, then, and in such case,
 13 the department shall be permitted reasonable inspection of such
 14 premises for the purpose of ascertaining whether there is any viola-

15 tion of the provisions hereof. If any such [boarding home for
 16 sheltered care] *residential health care facility*, boarding house *or*
 17 [rest home or other facility or institution] *rooming house*, shall
 18 operate as a private mental hospital, convalescent home, private
 19 nursing home or private hospital in violation of the provisions of
 20 this act, then the same shall be liable to the penalties which are
 21 prescribed and capable of being assessed against health care facili-
 22 ties pursuant to this act.

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

1 *~~19.~~* *22.* Section 19 of P. L. 1971, c. 136 (C. 26:2H-19) is
 2 amended to read as follows:

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

28 such transfer, shall continue in force and effect until duly modified,
29 abrogated or completed by the Department of Health.

1 ***[20.]*** *23.* Section 20 of P. L. 1971, c. 136 (C. 26:2H-20) is
2 amended to read as follows:

3 20. Employees of the present Bureau of Community Institutions
4 in the Department of Institutions and Agencies responsible for
5 administration of laws governing and concerning **[**boarding homes
6 for the sheltered care of adult persons**]** *residential health care*
7 *facilities*, private mental hospitals, convalescent homes, private
8 nursing homes and private hospitals are hereby transferred to the
9 State Department of Health. Persons so transferred shall be
10 assigned such duties as the State Commissioner of Health shall
11 determine.

1 ***[21.]*** *24.* Section 2 of P. L. 1977, c. 238 (C. 26:2H-37) is
2 amended to read as follows:

3 2. As used in this act, and unless the context otherwise requires:

4 a. "Boarding or nursing home" or "home" means a private
5 nursing home or convalescent home regulated under chapter 11 of
6 Title 30 of the Revised Statutes or a facility or institution, private
7 or public, regulated and licensed as an extended care facility,
8 skilled nursing home, nursing home or intermediate care facility
9 pursuant to P. L. 1971, c. 136 (C. 26:2H-1 to 26:2H-26) or a
10 **[**boarding home, rest home or other home for sheltered care of
11 adult persons**]** *residential health care facility*, as defined in section
12 1 of P. L. 1953, c. 212 (C. 30:11A-1) or licensed pursuant to P. L.
13 1971, c. 136 (C. 26:2H-1 to 26:2H-26).

14 b. "Owner" means the holder or holders of the title in fee simple
15 to the property on which the home is located.

16 c. "Licensee" means the holder or holders of a license to operate
17 a boarding or nursing home pursuant to chapter 11 of Title 30 of
18 the Revised Statutes, P. L. 1953, c. 212 (C. 30:11A-1 to 30:11A-14)
19 or P. L. 1971, c. 136 (C. 26:2H-1 to 26:2H-26).

20 d. "Department" means the State Department of Health.

1 ***[22.]*** *25.* Section 3 of P. L. 1972, c. 29 (C. 26:21-3) is
2 amended to read as follows:

3 3. Terms defined. As used in this act, the following words and
4 terms shall have the following meanings, unless the context indi-
5 cates or requires another or different meaning or intent:

6 "Authority" means the New Jersey Health Care Facilities
7 Financing Authority created by this act or any board, body, com-
8 mission, department or officer succeeding to the principal functions
9 thereof or to whom the powers conferred upon the authority by this
10 act shall be given by law.

11 "Bond" means bonds, notes or other evidences of indebtedness
12 of the authority issued pursuant to this act.

13 "Commissioner" means the State Commissioner of Health.

14 "Hospital facility" means a structure suitable to provide hos-
15 pitals, hospital related housing facilities, doctors' office buildings
16 or other health-care facilities for the prevention, diagnosis or treat-
17 ment of human disease, pain, injury, disability, deformity or phy-
18 cal condition or mental illness and retardation, and for facilities
19 incidental or appurtenant thereto.

20 "Participating hospital" means a public hospital or private
21 hospital which has entered into a regulatory agreement in accord-
22 ance with this act.

23 "Private hospital" means a hospital or health care institution,
24 or an institution for the training of doctors, nurses, paramedical
25 or other personnel engaged in the provision of health care, other
26 than a State, county or municipal hospital or health care facility,
27 or related institution including a health maintenance organization,
28 public health center, diagnostic center, treatment center, rehabilita-
29 tion center, extended care facility, skilled nursing home, nursing
30 home, intermediate care facility, tuberculosis hospital, chronic
31 disease hospital, maternity hospital, special hospital, mental hos-
32 pital, outpatient clinic, dispensary***[]*** *or** home health agency,
33 **[boarding home or other home for sheltered care]** *residential*
34 *health care facility or community mental health center** situated
35 within the State and which is a nonprofit institution providing
36 hospital or health care service to the public*. *or any proprietary*
36A *or nonprofit residential health care facility or community mental*
36B *health center situated within the State and providing such service*
36C *to the public*.*

37 "Public hospital" means a State, county or municipal hospital
38 or health care facility including health maintenance organization,
39 public health center, diagnostic center, treatment center, rehabilita-
40 tion center, extended care facility, skilled nursing home, nursing
41 home, intermediate care facility, tuberculosis hospital, chronic
42 disease hospital, maternity hospital, mental hospital, outpatient
43 clinic, dispensary, home health care agency, **[boarding home or**
44 **other home for sheltered care]** *residential health care facility or*
45 *community mental health center* now or hereafter established or
46 authorized by law.

47 "Project" or "hospital project" means a specific work, includ-
48 ing lands, buildings, improvements, alterations, renovations, en-
49 largements, reconstructions, fixtures and articles of personal prop-
50 erty, acquired, constructed, rehabilitated, owned and operated by

51 a participating hospital pursuant to this act, to provide hospital
 52 or health care facilities or facilities related, required or useful to
 53 or for the operation of a hospital facility, and "project" or
 54 "hospital project" may include any combination of the foregoing
 55 undertaken jointly by any participating hospital with one or more
 56 other participating hospitals.

57 "Project cost" or "hospital project cost" means the sum total
 58 of all or any part of costs incurred or estimated to be incurred
 59 by the authority or by a participating hospital which are reasonable
 60 and necessary for carrying out all works and undertakings and
 61 providing all necessary equipment for the development of a project,
 62 exclusive of the amount of any private or Federal, State or local
 63 financial assistance for and received by a participating hospital for
 64 the payment of such project cost. Such costs shall include, but are
 65 not necessarily limited to, interest prior to, during and for a reason-
 66 able period after such development, start-up costs and costs of
 67 operation and maintenance during the construction period and for
 68 a reasonable additional period thereafter, the cost of necessary
 69 studies, surveys, plans and specifications, architectural, engineer-
 70 ing, legal or other special services, the cost of acquisition of land,
 71 buildings and improvements thereon (including payments for the
 72 relocation of persons displaced by such acquisition), site prepara-
 73 tion and development, construction, reconstruction, equipment, in-
 74 cluding fixtures, equipment, and cost of demolition and removal,
 75 and articles of personal property required, the reasonable cost of
 76 financing incurred by a participating hospital or the authority in
 77 the course of the development of the project, reserves for debt
 78 service, the fees imposed upon a participating hospital by the
 79 commissioner and by the authority; other fees charged, and neces-
 80 sary expenses incurred in connection with the initial occupancy of
 81 the project, and the cost of such other items as may be reasonable
 82 and necessary for the development of a project. The commis-
 83 sioners approval of estimated project cost in accordance with
 84 section 6 of this act shall include his approval, which shall be
 85 conclusive, as to the reasonableness or necessity of any item of
 86 cost and as to the reasonableness of any period of time in respect
 87 of which interest, start-up, operation and maintenance costs have
 88 included in project costs.***

1 ***[23.]** *****[*26.*]** *** **25.*** The title of P. L. 1953, c. 212 is
 1A amended to read as follows:

2 An act requiring the approval, inspection and regulation of
 3 **[certain types of boarding homes, rest homes and other homes for**
 4 **the sheltered care of]** *residential health care facilities for four or*

5 more adult persons, which provide personal care or service beyond
6 food, shelter and laundry; providing for standards and regulations
7 and penalties for violation thereof, and supplementing Title 30 of
8 the Revised Statutes.

1 *~~[24.]~~ * ~~***[27.]***~~ ***26.*** Section 1 of P. L. 1953, c. 212
2 (C. 30:11A-1) is amended to read as follows:

3 1. For purposes of this act, a ~~[boarding home, rest home or~~
4 ~~other home for the sheltered care of adult persons]~~ *residential*
5 *health care facility* is defined as any ~~[establishment]~~ *facility*,
6 whether in single or multiple dwellings, whether public or private,
7 whether incorporated or unincorporated, whether for profit or non-
8 profit, operated at the direction of or under the management of an
9 individual or individuals, corporation, partnership, society, or
10 association, which furnishes food and shelter to four or more
11 ~~[adult]~~ persons *18 years of age or older who are* unrelated to
11A *to the proprietor*, and which provides ~~[any personal care or~~
12 ~~service beyond food, shelter and laundry,]~~ *dietary services, rec-*
12A *reational activities, supervision of self-administration of medica-*
12B *tions, supervision of and assistance in activities of daily living and*
13 *assistance in obtaining health services* to any one or more of such
13A persons, excluding, however, any *community residence for the*
13B *developmentally disabled as defined in section 2 of P. L. 1977, c. 418*
14 *(C. 30:11B-2), any facility or living arrangement operated by, or*
15 *under contract with, any State department or agency, upon the*
15A *written authorization of the Commissioner of the Department of*
15B *Health, and any* privately operated establishment licensed under
15C chapter 11 of Title 30 of the Revised Statutes.

16 A "resident" of a ~~[boarding home for sheltered care or rest~~
17 ~~home]~~ *residential health care facility* is defined as ~~[an adult]~~ *a*
18 *person 18 years of age or older* who is ambulant~~[, who is reason-~~
19 ~~ably oriented mentally, and]~~ *with or without assistive devices*
20 *who has been certified by a licensed physician to be free from com-*
21 *municable disease and not in need of "skilled" nursing care, and*
22 *who*, *except in the case of a person 65 years of age and over, is in*
23 *need of dietary services, supervision of self-administration of medi-*
24 *cations, supervision of and assistance in activities of daily living,*
25 *or assistance in obtaining health care services, but* shall not be
26 given *skilled* nursing care while ~~[such]~~ *a* resident except
27 as hereinafter provided. The foregoing definition shall not be
28 construed to prevent care of residents in emergencies or during
29 temporary illness for a period of 1 week or less *and shall not be*
30 *construed to prevent a licensed physician from ordering nursing*
31 *or other health care services*.

1 ~~25.~~ ~~28.~~ Section 2 of P. L. 1953, c. 212
 2 (C. 30:11A-2) is amended to read as follows:

3 2. ~~Boarding homes or other homes for the sheltered care of~~
 4 ~~adult persons~~ *Residential health care facilities* as defined in sec-
 5 tion 1, shall operate within this State pursuant to certificate of
 6 approval first had and obtained for that purpose from the Depart-
 7 ment of ~~Institutions and Agencies~~ *Health*. No such certificate
 8 of approval shall be issued unless the commissioner shall be
 9 satisfied that the institution in question is adequately prepared to
 10 furnish facilities, care and service complying with standards,
 11 relating thereto, except that temporary permits, valid for a period
 12 not exceeding 6 months and not subject to renewal, may be issued
 13 under the circumstances specified in section 6 of this act. Boarding
 14 and rooming houses ~~and similar establishments, which furnish~~
 15 ~~food or shelter or both to fewer than four persons, and those which~~
 16 ~~do not provide any personal care or service beyond food, shelter~~
 17 ~~and laundry~~ shall not be construed to be within the provisions of
 18 this act.

1 ~~26.~~ ~~29.~~ Section 3 of P. L. 1953, c. 212
 2 (C. 30:11A-3) is amended to read as follows:

3 3. The State ~~Board of Control of the~~ Department of ~~Institu-~~
 4 ~~tions and Agencies~~ *Health* shall adopt, promulgate and enforce
 5 such rules, regulations and standards with respect to the ~~boarding~~
 6 ~~homes and other establishments~~ *residential health care facilities*
 7 to be approved hereunder as it may deem necessary to assure
 8 that *persons living in such establishments facilities are af-*
 9 *forded the opportunity to live with as much independence, auton-*
 10 *omy and interaction with the surrounding community as they are*
 11 *capable of; such persons are afforded* minimum standards of
 11A *sanitation, housekeeping, heat, light, air, food, lodging and,*
 12 *care and service, and reasonable protection against fire,*
 13 *and other hazards to health and fire safety, to assure that*
 14 *which also preserve and promote a homelike atmosphere appro-*
 15 *priate to such facilities; such persons are not deprived of any*
 16 *constitutional, civil or legal right solely by reason of their living*
 17 *in such facilities;* ~~and that employees of public and private~~
 18 *agencies and all citizens have full and free reasonable*
 19 *access to such facilities when their purpose is to render per-*
 20 *sonal, social and legal services to persons living therein; and*
 21 *other citizens have reasonable access upon receiving the consent*
 22 *of the resident to be visited by them;* but nothing in this chapter
 23 nor any rule or regulation promulgated hereunder shall be con-
 24 strued to mean that any ~~boarding home, rest home or other home~~

25 for the sheltered care of any person] *residential health care fa-*
 26 *cility* may advertise, hold itself out or operate as a nursing home.
 27 * [Such rules, regulations and standards shall become effective
 28 when recommended by the Hospital Licensing Board, established
 29 pursuant to R. S. 30:11-6, and approved by the [State Board of
 30 Control] *department* and may, with like recommendation and ap-
 31 proval, be amended from time to time.] The [State Board of Con-
 32 trol] *department* may determine that the various establishments
 33 covered by this act are appropriately and reasonably classified into
 34 two or more classes, and may establish separate rules, regulations
 35 and standards for each such class. Such rules, regulations and
 36 standards shall in any event include, but need not be limited to, all
 37 requirements and limitations legally imposed upon any such estab-
 38 lishment by any other municipal, county, or State office or officer
 39 having inspection, approval, licensing or regulatory authority with
 40 respect to such establishment.

1 * [27.] * *** [30.*] *** **29.** Section 5 of P. L. 1953, c. 212
 2 (C. 30:11A-5) is amended to read as follows:

3 5. Upon receipt of an application for a certificate of approval, the
 4 department shall cause an investigation to be made of the applicant
 5 and the facilities, and shall issue a certificate of approval if it is
 6 found that the applicant is of good moral character and that the
 7 facilities comply with the provisions of this act and with the
 8 regulations and standards required by the department pursuant
 9 hereto. The certificate of approval shall not be transferable or
 10 assignable or applicable to any premises or proprietor other
 11 than those specified therein. The certificate shall be conspicuously
 12 displayed within the [boarding home] *residential health care*
 13 *facility* at all times.

1 * [28.] * *** [31.*] *** **30.** Section 6 of P. L. 1953, c. 212
 2 (C. 30:11A-6) is amended to read as follows:

3 6. Any [boarding home or other home for the sheltered care of
 4 adult persons] *residential health care facility* which is in opera-
 5 tion on the effective date of this act, or at the time of promulgation
 6 of any applicable rules, regulations or standards under this act,
 7 may be given a reasonable time, not to exceed 2 years, within
 8 which to comply with such rules, regulations and standards, or
 9 subsequent amendments or supplements thereto.

1 * [29.] * *** [32.*] *** **31.** Section 9 of P. L. 1953, c. 212
 2 (C. 30:11A-9) is amended to read as follows:

3 9. The department shall make or cause to be made such inspec-
 4 tions of the premises of any [boarding home or other home for
 5 the sheltered care of adult persons,] *residential health care facility*

6 from time to time as it may deem necessary to be assured that any
 7 such establishment is at all times complying with the provisions of
 8 this act and with the rules, regulations and standards promulgated
 9 hereunder. Any approved establishment, prior to making any
 10 alteration, additions or improvements to its facilities or prior
 11 to the construction of new facilities shall, before commencing such
 12 work, submit plans and specifications to the department for pre-
 13 liminary inspection and approval or recommendations with respect
 14 thereto.

1 *~~30.~~ * ~~33.~~ * ~~32.~~ * Section 10 of P. L. 1953, c. 212
 2 (C. 30:11A-10) is amended to read as follows:

3 10. (a) Any person, firm, corporation, partnership, society or
 4 association who shall operate or conduct a ~~boarding home or other~~
 5 ~~home for the sheltered care of adult persons~~ *residential health*
 6 *care facility* without first obtaining the certificate of approval re-
 7 quired by this act, or who shall operate such establishment after
 8 revocation or suspension of a certificate of approval, shall be liable
 9 to a penalty of \$10.00 for each day of operation in violation hereof
 10 for the first offense and for any subsequent offense shall be liable to
 11 a penalty of \$20.00 for each day of operation in violation hereof.

12 The penalties authorized by this section shall be recovered in a
 13 ~~civil action~~ *summary proceeding*, brought in the name of the State
 14 of New Jersey ~~in the Superior Court or County Court of any~~
 15 county, which court shall have jurisdiction of all actions to recover
 16 such penalties *pursuant to the "penalty enforcement law"*
 17 *(N. J. S. 2A:58-1 et seq.)*. Money penalties, when recovered, shall
 18 be payable to the General State Fund.

19 The department may, in the manner provided by law, maintain
 20 an action in the name of the State of New Jersey for injunctive
 21 relief against any person, firm, corporation, partnership, society
 22 or association, continuing to conduct, manage or operate a ~~board-~~
 23 ~~ing home or other home for the sheltered care of adult persons~~
 24 *residential health care facility* without a certificate of approval, or
 25 after suspension or revocation of such certificate.

26 The practice and procedure in actions instituted under authority
 27 of this section shall conform to the practice and procedure in the
 28 court in which the action is instituted.

29 No officer or agent of any municipal or county agency having
 30 responsibility for making payments of any form of public assistance
 31 under the provisions of Title 44 of the Revised Statutes, shall make
 32 such payments to or on behalf of a person residing in a ~~boarding~~
 33 ~~home or other home for sheltered care of adult persons~~ *residential*
 34 *health care facility* as defined in this act, unless such establishment

35 is, at the time of such payment, approved or provisionally approved
36 pursuant to this act.

37 (b) No [boarding home, rest home or other home for sheltered
38 care of adult persons] *residential health care facility*, licensed here-
39 under, shall by public or private advertisement or by any other
40 means hold out to the public that it is equipped to provide post-
41 operative or convalescent care for persons mentally ill or mentally
42 retarded or who are suffering or recovering from illness or injury
43 or who are critically ill. Any person, firm, association, partnership,
44 society or corporation who violates the provisions of this subsection
45 shall cease and desist from such practices and shall be liable to a
46 penalty of \$100.00 for the first and \$200.00 for each subsequent
47 offense, such penalties shall be recovered in the manner provided
48 for in subsection (a) of this section.

49 (c) No [boarding home, rest home, or other home for the
50 sheltered care of adult persons] *residential health care facility*
51 licensed hereunder, shall operate as a private mental hospital, con-
52 valescent home, private nursing home, or private hospital, unless
53 it is licensed pursuant to chapter [340, P. L. 1947] *11 of Title 30 of*
54 *the Revised Statutes*. Whenever there is reason to believe that any
55 such facility or institution is in violation of the provisions of this
56 subsection, the department may conduct a reasonable inspection of
57 the premises for the purpose of ascertaining whether there is any
58 violation. Any facility or institution which violates the provisions
59 of this subsection shall be liable to a penalty of \$25.00 for each day
60 of operation in violation of this subsection for the first offense and
61 to a penalty of \$50.00 for each day of operation for any subsequent
62 offense. The [State Board of Control] *Department of Health*,
63 with the approval of the Attorney General, is hereby authorized
64 and empowered to compromise and settle claims for the monetary
65 penalty in appropriate circumstances where it appears to the
66 satisfaction of the [board] *department* that payment of the full
67 penalty will work severe hardship on any individual not having
68 sufficient financial ability to pay the full penalty but in no case shall
69 the penalty be compromised for a sum less than \$250.00 for the first
70 offense and \$500.00 for any subsequent offenses; provided, however,
71 that any penalty of less than \$250.00 or \$500.00, as the case may
72 be, may be compromised for a lesser sum. The penalties authorized
73 by this subsection shall be recovered in the manner provided for in
74 subsection (a) of this section.

75 *(d) *No owner, operator or employee of a residential health care*
76 *facility shall serve notice upon a resident to leave the premises, or*

77 take any other action in retaliation for: (a) The efforts of the
 78 resident or a person acting on his behalf to secure or enforce any
 79 rights under a contract, the laws of this State or any of its sub-
 80 divisions, or the laws of the United States; or (b) The good faith
 81 complaint of a resident or a person acting on his behalf to a gov-
 82 ernmental authority concerning the owner, operator or employee's
 83 alleged violation of this act or any health or safety law, regulation,
 84 code or ordinance, or other law or regulation which has as its
 85 objective the regulation of residential health care facilities.*

1 *~~31.~~* ***~~34.~~*** **33.** Section 12 of P. L. 1953, c. 212
 2 (C. 30:11A-12) is amended to read as follows:

3 12. Nothing in this act shall vest authority or be construed to
 4 vest authority in the Department of ~~Institutions and Agencies~~
 5 Health to deny any application for a certificate of approval on the
 6 sole ground that adequate ~~boarding home facilities or other~~
 7 facilities for the sheltered care of adult persons] residential health
 8 care *~~facility~~* *facilities* are already available in the vicinity
 9 or area for which the certificate of approval is sought.

10 Nothing in this act shall be so construed as to give authority to
 11 supervise or regulate or control the remedial care or treatment of
 12 individuals who are adherents of any well-recognized church or
 13 religious denomination which subscribes to the art of healing by
 14 prayer and the principles of which are opposed to medical treat-
 15 ment and who are living in any home or institution operated by a
 16 member or members, or by an association or corporation composed
 17 of members of such well-recognized church or religious denomina-
 18 tion; provided, that such home or institution admits only adherents
 19 of such church or denomination and is so designated; nor shall the
 20 existence of any of the above conditions alone militate against
 21 granting a certificate of approval to such establishment; and pro-
 22 vided further, that such establishment shall comply with all rules,
 23 regulations and standards relating to sanitation and safety of the
 24 premises and be subject to inspection therefor.

1 *~~32.~~* ***~~35.~~*** **34.** Section 3 of P. L. 1973, c. 256
 2 (C. 44:7-87) is amended to read as follows:

3 3. The commissioner shall:

4 a. Enter into agreements with the government to secure the
 5 administration of supplementary payments by the government for
 6 such time and upon such conditions as the commissioner may in his
 7 discretion deem appropriate.

8 b. Promulgate, alter and amend such rules, regulations and
 9 directory orders as are necessary and proper:

10 (1) To implement the terms of the agreement with the govern-
11 ment for the administration by the government of supplementary
12 payments; and

13 (2) To secure social services for eligible persons, and for such
14 other aged, blind or disabled persons as the commissioner may
15 designate.

16 c. Transfer State or welfare board funds, or both, currently
17 appropriated for this State's participation in the Federal cate-
18 gorical assistance programs of "Old Age Assistance," R. S. 44:7-3
19 to R. S. 44:7-37, "Assistance for the Blind," P. L. 1962, c. 197
20 (C. 44:7-43 to 44:7-49) and "Permanent and Total Disability
21 Assistance," P. L. 1951, c. 139 (C. 44:7-38 to 44:7-42) and any
22 funds which may in the future be appropriated for the payment of
23 supplementary payments, to the government in such amounts and
24 at such times as the commissioner shall deem appropriate in order
25 to provide for supplementary payments to eligible persons in this
26 State.

27 d. Pay to the government such funds as are necessary to reim-
28 burse the government's expenses in collecting additional informa-
29 tion needed for the State to make eligibility determinations for
30 medical assistance under the New Jersey Medical Assistance and
31 Health Services Act, P. L. 1968, c. 413 (C. 30:4D-1 to 30:4D-19).

32 e. Require welfare boards to perform such eligibility determina-
33 tions as the commissioner may deem necessary for the continuation
34 of the New Jersey Medical Assistance Program under the New
35 Jersey Medical Assistance and Health Services Act, P. L. 1968,
36 c. 413. The commissioner shall pay to the counties a ***[reasonable]***
37 *reasonable* amount to reimburse the welfare boards for their
38 expenses in making such eligibility determinations.

39 f. Assess welfare boards at the beginning of each fiscal year in
40 the same proportion that the counties currently participate in the
41 Federal categorical assistance programs in order to obtain the
42 amount of each county's share of supplementary payments for
43 eligible persons in this State based upon the number of eligible
44 persons in the county. The assessment shall be made as of Janu-
45 ary 1, 1974 for fiscal year 1974. In the event that the assessment
46 against welfare boards in any 1 year exceeds the amount annually
47 transferred to the government for the counties' portion of sup-
48plementary payments, the commissioner shall return the excess
49 to the welfare boards in the same proportion as that used by the
50 commissioner in assessing the welfare boards for the fiscal year
51 involved.

52 g. ***[Do everything necessary]** *Take appropriate steps* to
 53 secure maximum Federal *financial* participation in providing
 54 assistance to eligible persons residing in residential health care
 55 facilities.

56 h. Ensure that ***[the total payment rendered to]** *any eligible
 57 person residing in a ***rooming or boarding house or*** residential
 58 health care facility ***[includes]** *has reserved to him a monthly
 59 amount ***[not less than \$25.00]***, from payment received under
 60 the provisions of the act to which this act is a supplement or
 61 from any other income, as* a personal needs allowance ***[which is
 62 made available in full to such person, and that the amount of the
 63 personal needs allowance is periodically reviewed to determine its
 64 adequacy, and if necessary, adjusted]** *. ***The personal needs
 65 allowance may vary according to the type of facility in which an
 66 eligible person resides, but in no case shall be less than \$25.00 per
 67 month.***

1 ***[33.]** ******[36.]***** ***35.*** P. L. 1973, c. 256 is supplemented

1A as follows:

2 **(New section) a. As used in this section, "eligible resident"*
 3 *means a resident of a residential health care facility, rooming house*
 4 *or boarding house who is: eligible to receive services under the*
 5 *latest New Jersey Comprehensive Annual Services Program Plan*
 6 *for the use of funds appropriated under Title XX of the Federal*
 7 *Social Security Act; an "eligible person" under the act to which*
 8 *this act is a supplement; an otherwise aged, blind or disabled per-*
 9 *son; or a resident designated to be eligible by the Commissioner of*
 10 *the Department of Human Services.**

11 ***[(New section) a.]** *b.* County welfare boards shall provide
 12 services to ***[recipients of Supplemental Security Income, under**
 13 **P. L. 1973, c. 256, and other aged, blind or disabled persons residing**
 14 **in]** *eligible residents of* residential health care facilities, room-
 15 ing houses and boarding houses which shall include, but not be
 16 limited to, the following:

17 (1) Investigation **and evaluation** of reports of ***[harm or**
 18 **threats of harm to]** **abuse or exploitation, as defined in section*
 19 ****[38]** ***[**37**]*** ***36*** hereunder, or of threats of such**
 20 *abuse or exploitation of eligible* residents ***[of such facilities and***
 21 *referral of such reports, as necessary, to appropriate State and*
 22 *local authorities for remedial action] *, *at the direction of the*
 23 *Commissioner of Human Services* ;**

24 (2) Visits to **all** such facilities **having eligible residents, at*
 25 *regularly scheduled intervals** to assess the needs of **such** resi-
 26 dents ***[and]** *,* determine whether they are receiving needed

27 services and ***[an]*** appropriate ***[level]*** *levels* of care*, and
28 *to provide such services where appropriate**;

29 (3) Provision of information to ***[such]*** *eligible* residents
30 concerning social service, welfare, mental health, home health and
31 medical assistance programs available to them*; *referrals of eligi-*
32 *ble residents to State, county and local agencies and organizations*
33 *for any such services which county welfare boards cannot provide;*
34 *and follow up to such referrals to determine whether such services*
35 *are being provided**; ***[and]***

36 ***[(4)]** Recording of complaints received concerning services and
37 conditions at such facilities, referral of such complaints to appro-
38 priate State and local agencies for remedial action, and follow-up
39 to ensure that such action has been taken. **]***

40 **(4) Reporting of any suspected violations of the provisions of*
41 *this act and of any complaints received concerning services and*
42 *conditions in such facilities to the commissioner and to appropriate*
43 *State and local agencies for remedial action; and*

44 (5) Provision of information to eligible residents whose con-
45 tinued residence in such facilities may be injurious or dangerous
46 to their health concerning alternative housing and living arrange-
47 ments available to them.

48 County welfare boards shall coordinate all services provided
49 under this subsection with services provided to eligible residents
50 by the State Divisions of Mental Health and Hospitals, Mental Re-
51 tardation and Youth and Family Services, charitable institutions
52 and other State and local agencies and service providers.

53 c. In order to fulfill their responsibilities under subsection b.
54 above, county welfare boards shall be entitled to receive full and
55 free access to residential health care facilities, rooming houses and
56 boarding houses by the owners and operators of such facilities,
57 and to receive cooperation and assistance from State and local law
58 enforcement officials as needed.*

59 ***[b.]*** **d.** The Commissioner of the Department of Human
60 Services shall:

61 (1) Promulgate all necessary regulations to implement the
62 provisions of this section;

63 (2) Maintain a central file of all complaints received concerning
64 **suspected violations of the provisions of this act and concerning**
65 services and conditions at residential health care facilities, room-
66 ing houses and boarding houses ***[,** for the use of any State or local
67 agency charged with responsibility for inspecting, licensing or
68 supervising such facilities; and **]*** **and shall maintain a record of*
69 *the State and local agencies to which complaints have been referred*

70 by county welfare boards; refer any such complaints received by
 71 the commissioner to State and local agencies for remedial action as
 72 necessary; and follow up all complaints to determine whether such
 73 action has been taken;*

74 *(3) Provide such training and educational programs to the
 75 operators of such facilities as will enable them to appropriately
 76 respond to the needs of their residents;

77 (4) Designate agencies to:

78 (a) Identify those residential health care facilities, rooming
 79 houses and boarding houses in which substantial numbers of per-
 80 sons reside who are in need of mental health or mental retardation
 81 services;

82 (b) Receive referrals and be responsible for the provision of
 83 mental health or mental retardation services, or both;

84 (c) Report any apparent violation of this act to the appropriate
 85 State and local officials and authorities;

86 (d) Coordinate their efforts with county welfare boards, charita-
 87 ble institutions, the State Divisions of Mental Health and Hospitals,
 88 Mental Retardation and Youth and Family Services, and other
 89 State and local entities and service providers.*

90 *[(3)]* *(5) Periodically monitor and evaluate services pro-
 91 vided to *eligible* residents *of such facilities]* by county wel-
 92 fare boards *and community agencies serving the mentally ill and
 93 the mentally retarded*.

94 *(6) Issue a report to the Legislature's Standing Reference
 95 Committees on Institutions, Health and Welfare concerning the
 96 implementation of this section, 1 year following the effective date
 97 of this act.

98 e. Any person who submits or reports a complaint concerning a
 99 suspected violation of the provisions of this act or concerning ser-
 100 vices and conditions in residential health care facilities, rooming
 101 houses and boarding houses, or who testifies in any administrative
 102 or judicial proceeding arising from such a complaint, shall have
 103 immunity from any civil or criminal liability on account of such
 104 complaint, unless such person has acted in bad faith or with ma-
 105 licious purpose.

1 ***[37.]*** **36.** (New section) Title 30 of the Revised
 2 Statutes is supplemented as follows:

3 a. As used **[n]** **in** this section "abuse" means the will-
 4 ful infliction of physical pain, injury or mental anguish; unreason-
 5 able confinement; or, the willful deprivation of services which are
 6 necessary to maintain a person's physical and mental health; and

7 "exploitation" means the act or process of using a person or his
8 resources for another person's profit or advantage.

9 b. Any person who has reasonable cause to suspect that a resi-
10 dent of a residential health care facility, rooming house or board-
11 ing house is suffering or has suffered abuse or exploitation, shall
12 report such information in a timely manner to the Commissioner
13 of the Department of Human Services, or to the person or agency
14 within the department designated by the commissioner to receive
15 such reports.

16 c. Such report shall contain the name and address of the resident,
17 information regarding the nature of the suspected abuse or ex-
18 ploitation and any other information which might be helpful in an
19 investigation of the case and the protection of the resident.

20 d. The name of any person who reports suspected abuse or ex-
21 ploitation pursuant to this section and the name of any person
22 mentioned in such report shall not be disclosed unless the person
23 who reported the abuse or exploitation specifically requests such
24 disclosure or a judicial proceeding results from such report.

25 e. Any person who reports suspected abuse or exploitation pur-
26 suant to this section or who testifies in any administrative or ju-
27 dicial proceeding arising from such report or testimony shall have
28 immunity from any civil or criminal liability on account of such
29 report or testimony, unless such person has acted in bad faith or
30 with malicious purpose.

31 f. Upon receiving a report that a resident of a residential health
32 care facility, rooming house or boarding house may be suffering
33 or may have suffered abuse or exploitation, the commissioner shall
34 promptly notify the Ombudsman for the Institutionalized Elderly
35 when the report involves an elderly person as defined in section 2
36 of P. L. 1977, c. 239 (C. 52:27G-2), and shall direct the appropriate
37 county welfare board to make a prompt and thorough evaluation
38 of the report, or refer the report for such an evaluation by another
39 appropriate government agency.

40 g. The evaluation shall be based upon a visit with the resident
41 and consultation with others who have knowledge of the particular
42 case, and shall contain written findings and recommendations. The
43 person who reported the suspected abuse or exploitation, the vic-
44 tim of the suspected abuse or exploitation, the owner of the resi-
45 dential health care facility, rooming house or boarding house
46 wherein the suspected abuse or exploitation has occurred, the Stat-
47 agency having a regulatory responsibility for the facility, and the
48 Ombudsman for the Institutionalized Elderly when the case in-
49 volves an elderly person as defined in section 2 of P. L. 1977, c. 239

50 (C. 52:27G-2), shall be promptly notified of such findings and rec-
51 ommended action.

52 h. If a determination is made that the resident may have suffered
53 abuse or exploitation, the commissioner shall refer such findings,
54 in writing, to the county prosecutor.

55 i. The commissioner shall maintain a central registry of all re-
56 ports of suspected abuse or exploitation and all evaluations, find-
57 ings and recommended action. No information received and com-
58 piled in such registries shall be construed to be a public record.

1 ***[38.]*** ***37.*** There is hereby appropriated \$204,000.00
2 to the Department of Community Affairs and \$46,000.00 to the
3 Department of Health to implement the provisions of this act.*

4 *In addition, from the revenue derived as fees pursuant to section
5 7b. of this act there is hereby appropriated to the Department of
6 Community Affairs such additional amounts as may be necessary
7 to implement the provisions of this act, subject to the approval of
8 the Director of the Division of Budget and Accounting, but, in no
9 case, more than \$100,000.00.**

1 * [34.]* ***[39.*]*** ***38.*** This act shall take effect 180
2 days following enactment.

10 (2) Visits to such facilities to assess the needs of residents and
 11 determine whether they are receiving needed services and an ap-
 12 propriate level of care;

13 (3) Provision of information to such residents concerning social
 14 service, welfare, mental health, home health and medical assistance
 15 programs available to them; and

16 (4) Recording of complaints received concerning services and
 17 conditions at such facilities, referral of such complaints to appro-
 18 priate State and local agencies for remedial action, and follow-up
 19 to ensure that such action has been taken.

20 b. The Commissioner of the Department of Human Services
 21 shall:

22 (1) Promulgate all necessary regulations to implement the
 23 provisions of this section;

24 (2) Maintain a central file of all complaints received concerning
 25 services and conditions at residential health care facilities, room-
 26 ing houses and boarding houses, for the use of any State or local
 27 agency charged with responsibility for inspecting, licensing or
 28 supervising such facilities; and

29 (3) Periodically monitor and evaluate services provided to resi-
 30 dents of such facilities by county welfare boards.

1 34. This act shall take effect 180 days following enactment.

STATEMENT

This bill, the "Rooming and Boarding House Act of 1979," is comprehensive legislation aimed at combating abuses in the boarding home industry and promoting the health, safety and welfare of the residents of all boarding homes in the State. The bill provides for State licensure by the Department of Community Affairs of all currently unregulated boarding homes, under the categories of "rooming house" and "boarding house." The bill maintains regulatory authority for boarding homes for sheltered care in the Department of Health, but renames these homes "residential health care facilities." Other provisions in the bill: ensure a continuing coordination of effort between four State agencies which each have a proper role in serving the needs of boarding home residents; require county welfare boards to assess the needs of residents and arrange for services to be extended to them; and require the State Health Department to begin collecting information on the costs and resources of residential health care facilities so that the Legislature will later be in a position to decide whether the State should set payment rates for such facilities.

53111 (1979)

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO
SENATE, No. 3111
with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 23, 1979

SUMMARY

This bill would subject all boarding homes in New Jersey to State licensure and inspection. A home would fall into one of three categories—rooming house, boarding house or residential health care facility—depending on the services it offered. Rooming and boarding houses would be regulated by the Department of Community Affairs and residential health care facilities (RHCF's) by the Department of Health. The latter group would encompass most of the facilities now known as boarding homes for sheltered care and already licensed by the Health Department. Along with a name change they would be given minimal new health care responsibilities. Thus, while the term "boarding home" would remain useful for generic, descriptive purposes, it would no longer carry statutory meaning.

As an omnibus bill, Senate Bill No. 3111 has other important provisions related to its overall purpose, which is to promote decent care for those of our citizens who inhabit boarding facilities. The bill requires interdepartmental planning and coordination of services under the leadership of the Department of Human Services. It requires county welfare board social workers to make regular visits to homes to assess the needs of residents and arrange assistance for them if necessary. And it requires suspected abuse or exploitation of boarding home residents to be reported to the Commissioner of Human Services.

COMMITTEE CONSIDERATION

This bill has received long and careful attention from the committee. Its release brings to an end almost nine months of deliberating, drafting and amending. Further information about the bill and the process that led to its favorable release can be found in the transcript to the committee's public hearing of July 26, 1978 and in the minutes of its meetings held on November 30, 1978 and January 4, January 25, February 22, March 8 and March 29, 1979. The committee has received invaluable advice and support from the following agencies or groups: the Departments of Community Affairs, Health, Human Services and the Public

Advocate, the Ombudsman for the Institutionalized Elderly, the Association of Health Care Facilities, the Association of Non-profit Homes for the Aging, the Licensed Boarding Home Council, the Home Health Agency Assembly, the State Nurses' Association, the National Association of Social Workers—N. J. branch, the Mental Health Association, the Association for the Advancement of the Mentally Handicapped and a number of county welfare agencies. Many others, including boarding home owners, university professors, county and municipal officials and private citizens lent their expertise to the committee.

Senate Bill No. 3111 is based upon draft proposals prepared by the Department of Health's Advisory Committee on Boarding Homes: a group of knowledgeable State officials and representatives of boarding home, professional and volunteer organizations. The Advisory Committee began meeting in 1977 and produced a report in early 1978 advocating a "systemic approach" to boarding home problems. With one exception noted below, the systemic recommendations of the Advisory Committee have been adopted by the Institutions, Health and Welfare Committee. It is noteworthy that the State Commission of Investigation, the Department of the Public Advocate and the Legislature's own Nursing Home Study Commission have all contributed useful studies substantially in agreement with the recommendations of the Advisory Committee. The Governor's Task Force on Boarding Homes likewise recommended the Advisory Committee report for careful consideration by the Legislature.

This legislation cannot guarantee that there will be no more boarding home fires. It cannot eliminate all abuse and exploitation of boarding home residents. Nor, on the other hand, can it assure conscientious boarding home owners (and these are in the clear majority, by all accounts) that they will have understanding State officials and limitless resources. But it can bring order to what is now a chaos of competing, overlapping and counter-productive laws and regulations. It can ensure that residents are not forgotten. It can provide a consistent framework of regulations under which every owner will be held accountable for meeting realistic standards. It can force the social service, health and welfare providers to make help available to those who need it.

The committee has sought to balance two sets of interests in this legislation. On the one hand there are the interests of the boarding home population. Comprehensive licensing, county welfare agency services and mandatory reporting of abuse are all designed to protect and indeed, enhance the lives of this group. On the other hand there are the interests of the boarding home industry. It helps no one if misguided legislation and burdensome rules force boarding home owners to close up and try some other business. Our society needs the

well-run boarding home. So the committee has tried to make sure that there will be sufficient incentives for rooming houses, boarding houses and RHCF's to stay in business and even to grow in number; especially facilities run by small-time owners who manage to maintain warm, family-like residences. Additional capital funding, research into the costs and financial needs of owners and a three-tiered licensing structure are all designed with these goals in mind.

Survey of sections, as amended

1. *Short title*

The "Rooming and Boarding House Act of 1979."

2. *Legislative Findings*

3-16. (New sections) *Licensing of rooming and boarding houses by the Department of Community Affairs.*

Both rooming houses and boarding houses are defined as structures which contain two or more units of dwelling space arranged for single room occupancy (section 3). Each such unit must be designed for sleeping or dwelling purposes by one or more persons. Thus, the act covers facilities serving as few as two individuals in settings *not* arranged for independent living (the meaning of "single room occupancy"). Rooming houses differ from boarding houses by not providing "personal" or "financial services." These latter terms are also defined in section 3. Certain facilities are excluded from the definitions of rooming house and boarding house, notably those operated by or under contract with a State agency, provided that the Commissioner of Community Affairs authorizes the exclusion. (This same exclusion is later applied to residential health care facilities, where the Commissioner of Health must give authorization.)

Among other things, this portion of the bill also: prescribes the kinds of standards that must be promulgated for rooming and boarding houses (section 6); specifies that owners and operators of these facilities must be licensed annually, pay fees ranging from \$75.00 to \$150.00 (section 7) and be subject to annual inspection (section 9); prescribes in some detail penalties for failing to terminate violations of the act, which include mandatory injunctive relief, the submission of monthly reports to the commissioner, or receivership (section 11); prohibits retaliatory action against residents or persons acting on their behalf (section 14; this provision is also later applied to residents of RHCF's); authorizes municipalities to perform inspections for the department; and provides that no owner or operator may also be subject to regulation by county or municipality.

17. (New section) *Policy Coordinating Committee*

This section requires the Commissioner of Human Services to convene quarterly meetings of a policy coordinating committee consisting

of herself, the Commissioners of Community Affairs and Health and the Ombudsman for the Institutionalized Elderly. The section also gives certain specific responsibilities to each agency for consulting with and informing the others.

The Senate committee disagrees with some who have proposed that jurisdiction over all boarding facilities be given to a single department, whether Community Affairs, Health or Human Services. The varying types of boarding facilities and their populations dictate a dispersal of responsibility. Rooming and boarding house licensure can be seen as an extension of the responsibilities that the Department of Community Affairs already has under the Hotel and Multiple Dwelling Act. Moreover, RHCF's, because they will provide some health-related services, are appropriately supervised by the Department of Health. The Department of Human Services is the only department capable of coordinating social, mental health and mental retardation services to residents.

Because responsibilities must be dispersed, interdepartmental cooperation will be very important. This section is designed to create a lasting framework for cooperation in the law.

This committee will be carefully reviewing the effectiveness of the policy coordinating committee. When future oversight hearings are held on this act, the Department of Human Services will be expected to provide a full report to the Legislature on the work of the committee. The report will include a summary of the information which has passed hands between the departments, an analysis of any problems which the committee has encountered and a judgment regarding whether or not the committee has been an effective instrument for cooperation. As the convening agency, the Department of Human Services will be responsible for doing everything possible to make the committee such an effective instrument.

18. (New section) Cost and revenue study

The one recommendation of the Advisory Committee which, as noted above, is not incorporated into this bill, would have established a rate-setting system for RHCF's. The State would have assigned the rates which a facility charges to its residents, and would have committed itself to increasing the Supplementary Security Income (SSI) welfare grant to pay the rates for residents on SSI. Certain constraints prevented the committee from accepting this type of provision. One was its high cost. Estimates were for an initial annual appropriation of \$2 million, rising to at least \$15 million in five years. This is a financial burden which the State is unable for the moment to assume. Another was some uncertainty over whether RHCF's do indeed need higher SSI payments. Some facilities appear to be managing quite well on payments from the existing SSI grant. Therefore, the committee decided

to require the Department of Health to study the costs and revenues of RHCF's and to report on them to the Legislature one year following the effective date of the act. If it is clearly demonstrated that rate-setting and higher SSI payments will improve services and expand the numbers of RHCF's the Legislature will need to reexamine the Advisory Committee's recommendation.

19-23. (Amendatory sections) Changes in nomenclature

All references in the Health Care Facilities Planning Act of 1971 to "boarding homes for sheltered care" are changed in these sections to "residential health care facility." This 1971 law transferred jurisdiction over licensed boarding homes from the Department of Institutions and Agencies to the Department of Health.

24. (Amendatory section) Change in nomenclature

This section amends the Nursing Home Bill of Rights to make reference to RHCF's rather than boarding homes for sheltered care.

25. (Amendatory section) Capital financing

This section amends the Health Care Facilities Financing Authority Act to permit the authority to provide capital financing for profit-making as well as non-profit RHCF's and community mental health centers.

26-34. (Amendatory sections) Residential Health Care Facilities

These sections amend the 1953 statute which first licensed boarding homes for sheltered care under the aegis of the Department of Human Services (then the Department of Institutions and Agencies). In this portion of the bill a number of technical amendments bring the statute up-to-date with the present alignment of responsibilities and again, introduce the new term "residential health care facility." In addition, a number of changes are introduced in the definitions of "RHCF" and of "resident." These are intended to clarify the role RHCF's have in providing a wider range of services than those available in rooming and boarding houses, and minimal health-related services such as dietary services and supervision of self-administration of medications. Other amendments specify that regulations are to preserve and promote a home-like atmosphere, protect the constitutional, civil or legal rights of residents, guarantee reasonable access for outsiders, and promote the independence and autonomy of residents. These latter provisions parallel those applied earlier in the bill to rooming and boarding houses.

35. (Amendatory section) Amendments to SSI Act

This section directs the Commissioner of Human Services to: 1) Take appropriate steps to secure maximum Federal financial assistance for persons in RHCF's; and 2) Ensure that residents of RHCF's who

receive SSI payments have a minimum of \$25.00 reserved for them each month as a personal needs allowance. The State Commission of Investigation demonstrated in hearings last summer how SSI residents are sometimes denied even this monthly pittance for their personal use.

36. (New section) County welfare board services

This section is vital to the bill. It provides the needed positive touch that the largely dependent, transient, often friendless population in boarding homes might otherwise be without. Thus, county welfare board caseworkers are here required to make assessments of the social and health care needs of eligible residents in all three types of boarding homes. They also would make arrangements for those needs to be met, either by further counseling or the intervention of other agencies.

The section defines "eligible resident" broadly, so that it is not only the welfare population which would receive visits and services from caseworkers. Once regulations are prepared it will be the responsibility of the Commissioner of Human Services to ensure that county welfare boards know whom they are directed to see when they visit boarding homes. It is the intent of the committee that these visits be of an "overview" nature, whereby caseworkers become generally acquainted with residents. Exhaustive personal interviews and tedious form-filling would not only consume too much of the valuable time of social workers; it would also be of questionable value. The broad objective of this section is to make professional counselors available and active in boarding homes so that residents receive encouragement, advice and assistance. Such workers should furthermore be guided by a restraint that recognizes the privacy and autonomy of residents and the need of owners and operators to fulfill their responsibilities free of interference and harassment.

This section assigns certain responsibilities to the Commissioner of Human Services as well as to county welfare boards. The commissioner would record all complaints received concerning services and conditions in boarding homes. The commissioner would also be charged with responsibility for passing on such complaints for remedial action, providing training and educational programs for operators, and taking steps to provide mental health and mental retardation services to residents, if necessary. A committee amendment requires the commissioner to submit a report to the Legislature on the implementation of the section, one year after it takes effect.

37. (New section) Reporting of suspected abuse or exploitation

The provisions of this section, urged by the Ombudsman for the Institutionalized Elderly among others, require anyone who sees a resident being "abused" or "exploited" (the terms are defined) to

report it to the Commissioner of Human Services. The commissioner would pass on the report to the county welfare board or another agency for an evaluation. The evaluation would contain findings and recommended action. If there was a finding that abuse or exploitation had occurred, all evidence would be referred to the county prosecutor. Anyone reporting suspected abuse or exploitation would have immunity from liability.

38. Appropriation

The bill appropriates \$250,000.00. According to estimates presented to the committee, the Department of Community Affairs would require \$445,000.00 and the Department of Health \$92,000.00 in the first full year of implementation. \$165,000.00 of this amount would be returned to the Treasury from fees that would be charged to the owners of rooming and boarding houses, for a net cost of \$342,000.00. The bill carries only a half-year's appropriation because the legislation is likely to take effect no sooner than midway through the next fiscal year.

39. Effective date

This section makes the act effective 180 days after enactment, in order to allow the departments (particularly the Department of Community Affairs) time to prepare for implementation.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 3111

STATE OF NEW JERSEY

ADOPTED APRIL 23, 1979

Amend page 1, title, line 20, omit "and", insert ","; after "Statutes", insert ", and making an appropriation".

Amend page 2, section 2, line 10, omit "learn what are", insert "ascertain".

Amend page 2, section 2, line 11, omit "presently", insert "currently".

Amend page 2, section 2, line 13, omit "may", insert "should".

Amend page 2, section 2, line 19, omit "closer attention or transferral to other facilities", insert "referral to existing or available community agencies or alternative living arrangements".

Amend page 2, section 2, line 20, omit "It is necessary to apportion responsibility", insert "Several State agencies have different yet appropriate responsibilities"; after "for", insert "protecting".

Amend page 2, section 2, lines 22-23, omit "among more than one agency of State and Local government", insert "and it is necessary that there be coordination among these agencies for the cost-effective fulfillment of their respective responsibilities".

Amend page 2, section 2, line 28, omit "and".

Amend page 2, section 2, line 31, after "facilities", insert ", and to ensure that needed social and remedial services are made available to the residents of such facilities through the efforts of county welfare boards".

Amend page 2, section 3, line 4, after "units", insert "of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator,".

Amend page 2, section 3, line 8, after "only," insert "any foster home as defined in section 1 of P. L. 1962, c. 137 (C. 30:4C-26.1), any community residence for the developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2)".

Amend page 2, section 3, line 11, omit "and".

Amend page 2, section 3, line 15, after "cation", insert ", and any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner".

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

Amend page 4, section 4, line 25, omit "the".

Amend page 4, section 4, line 31, omit "arises", insert "is entered".

Amend page 4, section 6, line 2, omit "boardng", insert "boarding".

Amend page 4, section 6, line 4, after "residents", insert "and at the same time preserve and promote a homelike atmosphere appropriate to such facilities".

Amend page 5, section 6, after line 18, insert new subsection j. as follows:

"j. Referral of residents, by the operator, to social service and health agencies for needed services;"

Amend page 5, section 6, line 19, omit "j.", insert "k."

Amend page 5, section 6, line 22, omit "k. Full and free", insert "1. Reasonable".

Amend page 5, section 6, line 23, after "agencies", insert ","; after "and", insert "reasonable access"; omit "all", insert "other".

Amend page 5, section 6, lines 23-25, omit "whose purpose is to render personal, social and legal services to persons residing in rooming and boarding houses", insert "upon receiving the consent of the resident to be visited by them".

Amend page 5, section 6, line 26, omit "l.", insert "m."

Amend page 5, section 7, line 8, after "of", insert "not more than".

Amend page 6, section 7, line 38, omit "d.", insert "8. (New section)".

Amend page 6, section 7, line 45, after "operator", insert ", and shall have the same responsibilities and be subject to the same penalties otherwise prescribed for an operator under the provisions of this act".

Amend pages 6-7, sections 8-10, renumber as sections 9 through 11.

Amend page 8, section 10, lines 40-42, omit "The court may proceed in a summary manner and may appoint as receiver a person", insert "It shall be a sufficient defense to the proceeding if the owner establishes that the condition alleged in the petition of the commissioner does not in fact exist or that such condition has been remedied or that such condition, although periodically remedied, has not habitually existed as pattern and practice.

The court shall proceed in a summary manner and shall render a judgment either: (1) Dismissing the petition; (2) Granting the relief provided under subsection a. above or directing the commissioner to issue an order as provided under subsection b. above; or (3) Appointing a receiver".

Amend page 8, section 10, line 43, omit "or persons", insert " ;".

Amend page 8, section 10, line 44, omit "no", insert "the"; after "operator", insert "of the home"; after "shall", insert "not".

Amend page 8, section 10, after line 59, insert new paragraph as follows:

“The receiver may, in his discretion, either: (1) Assume the role of operator; (2) Direct the operator to take such actions as will eliminate or rectify the conditions specified in the petition.”

Amend pages 9-10, sections 11-12, renumber as sections 12 and 13.

Amend page 10, section 12, after line 8, insert new section 14 as follows:

“14. (New section) No owner, operator or employee shall serve notice upon a resident to leave the premises, or take any other action in retaliation for: (a) The efforts of the resident or a person acting on his behalf to secure or enforce any rights under a contract, the laws of this State or any of its subdivisions, or the laws of the United States; or (b) The good faith complaint of a resident or a person acting on his behalf to a governmental authority concerning the owner, operator or employee’s alleged violation of this act or any health or safety law, regulation, code or ordinance, or other law or regulation which has as its objective the regulation of rooming houses or boarding houses.”

Amend page 10, section 13, line 1, omit “13.”, insert “15.”; after “Any”, insert “county or”.

Amend page 10, section 13, line 6, after “Every”, insert “county or”.

Amend page 10, section 13, line 10, after “any”, insert “county or”.

Amend page 10, section 13, line 18, omit “furnish to”, insert “, upon request of”; after “commissioner”, insert “, provide him with”.

Amend page 10, sections 14-15, renumber as sections 16 and 17.

Amend page 10, section 15, line 2, omit “dapartment”, insert “department”.

Amend page 11, section 15, line 21, after “information”, insert “, consistent with Federal law and regulations,”.

Amend page 11, section 15, line 22, after “checks”, omit “,”.

Amend page 11, section 15, line 23, after “may”, insert “be necessary to implement their duties under the provisions of this act and”.

Amend page 11, section 15, line 32, omit “consult with”, insert “solicit recommendations from”.

Amend page 11, section 15, line 33, after “houses,”, insert “and when such recommendations are not adopted, inform said commissioners of the reasons therefor, notify said commissioners concerning any waiver, modification or postponement granted under the provisions of section 5 of this act, and”.

Amend page 11, section 15, lines 38-39, omit “consult with”, insert “solicit recommendations from”.

Amend page 11, section 15, line 41, after “facilities,” insert “and when such recommendations are not adopted, inform the commissioners of the reasons therefor,”; omit “said”.

Amend page 12, section 16, line 1, omit "16.", insert "18."

Amend page 12, section 16, line 3, omit "the", insert "all".

Amend page 12, section 16, line 4, omit "resources", insert "revenues".

Amend page 12, section 16, line 7, omit "department", insert "commissioner"; after "set", insert "variable".

Amend page 12, section 16, line 8, omit "State".

Amend page 12, section 16, line 10, omit "periodically adjusted", insert "supplemented".

Amend page 12, section 16, after line 11, insert new paragraph as follows:

"One year following the effective date of this act, the commissioner shall submit a report to the Legislature's Joint Appropriations Committee and Standing Reference Committees on Institutions, Health and Welfare containing the information required herein to be collected."

Amend page 12, section 16, line 12, omit "enable the commissioner to".

Amend page 12, section 16, line 13, after "the", insert "commissioner is authorized to conduct such field visits and audits as may be necessary, and the".

Amend page 12, section 16, line 15, after "regulation", insert "; provided, however, that such reports, audits and accountings shall be the minimum necessary to implement the provisions of this section".

Amend page 12, section 16, after line 15, insert new section 19 as follows:

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

1. It is hereby declared to be the public policy of the State that hospital and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the State promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health, which has been designated as the sole agency in this State for comprehensive health planning under the "National Health Planning and Resources Development Act of 1974" (Federal Law 93-641), as amended and supplemented, shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services and health care facility cost containment programs, and all public and private institutions, whether State,

county, municipal, incorporated or not incorporated, serving principally as [boarding] *residential health care facilities*, nursing or maternity homes [or other homes for the sheltered care of adult persons] or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition, shall be subject to the provisions of this act.”.

Amend pages 12-17, sections 17-22, renumber as sections 20 through 25.

Amend page 15, section 18, line 16, after “house”, insert “or”.

Amend page 17, section 22, line 32, after “dispensary”, omit “,”, insert “or”.

Amend page 17, section 22, lines 33-34, omit “residential health care facility or community mental health center”.

Amend page 17, section 22, line 36, after “public”, insert “, or any proprietary or nonprofit residential health care facility or community mental health center situated within the State and providing such service to the public”.

Amend page 19, sections 23-24, renumber as sections 26 and 27.

Amend page 19, section 24, line 5, omit “establishment”, insert “facility”.

Amend page 19, section 24, line 10, omit “adult”.

Amend page 19, section 24, line 11, after “persons”, insert “18 years of age or older who are”; after “proprietor”, insert “,”.

Amend page 19, section 24, lines 11-12, omit “any personal care or service beyond food, shelter and laundry,”, insert “dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services”.

Amend page 19, section 24, line 13, after “any”, insert “community residence for the developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2), any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the Commissioner of the Department of Health, and any”.

Amend page 19, section 24, line 17, omit “an adult”, insert “a”; after “person”, insert “18 years of age or older”.

Amend page 19, section 24, line 18, omit “, who is reasonably oriented mentally, and”, insert “with or without assistive devices,”.

Amend page 19, section 24, line 20, after “of”, insert “skilled”; after “who”, insert “, except in the case of a person 65 years of age and over, is in need of dietary services, supervision of self-administration of medications, supervision of and assistance in activities of

daily living, or assistance in obtaining health care services, but"; after "given", insert "skilled".

Amend page 19, section 24, line 21, omit "such", insert "a".

Amend page 19, section 24, line 24, after "less", insert "and shall not be construed to prevent a licensed physician from ordering nursing or other health care services".

Amend page 20, sections 25-26, renumber as sections 28 and 29.

Amend page 20, section 26, line 7, after "that", insert ":'".

Amend page 20, section 26, line 10, after "of", insert " ; such persons are afforded".

Amend page 20, section 26, line 12, after "lodging", omit "and", insert ",'"; after "care", omit "and", insert ",'".

Amend page 20, section 26, lines 12-13, omit "reasonable protection against fire and other hazards to health and", insert "fire".

Amend page 20, section 26, line 13, after "safety", omit ",'", insert "which also preserve and promote a homelike atmosphere appropriate to such facilities;".

Amend page 20, section 26, line 13, omit "to assure that".

Amend page 20, section 26, line 15, omit ",'", insert " ;'".

Amend page 20, section 26, line 16, omit "and all citizens".

Amend page 20, section 26, lines 16-17, omit "full and free", insert "reasonable".

Amend page 20, section 26, lines 17-18, omit "when their purpose is to render personal, social and legal services to persons living therein", insert "and other citizens have reasonable access upon receiving the consent of the resident to be visited by them".

Amend pages 20-21, section 26, lines 23-27, omit entire sentence beginning "Such rules", and ending "from time to time."

Amend pages 21-22, sections 27-30, renumber as sections 30 through 33.

Amend page 23, section 30, after line 74, insert new subsection (d) as follows:

"(d) No owner, operator or employee of a residential health care facility shall serve notice upon a resident to leave the premises, or take any other action in retaliation for: (a) The efforts of the resident or a person acting on his behalf to secure or enforce any rights under a contract, the laws of this State or any of its subdivisions, or the laws of the United States; or (b) The good faith complaint of a resident or a person acting on his behalf to a governmental authority concerning the owner, operator or employee's alleged violation of this act or any health or safety law, regulation, code or ordinance, or other law or regulation which has as its objective the regulation of residential health care facilities."

Amend page 23, section 31, line 1, omit "31.", insert "34."

Amend page 24, section 31, line 8, omit "facility", insert "facilities".

Amend page 24, section 32, line 1, omit "32.", insert "35."

Amend page 25, section 32, line 36, omit "resonable", insert "reasonable".

Amend page 25, section 32, line 52, omit "Do everything necessary", insert "Take appropriate steps"; after "Federal", insert "financial".

Amend page 25, section 32, line 55, omit "the total payment rendered to".

Amend page 25, section 32, line 56, omit "includes", insert "has reserved to him a monthly amount not less than \$25.00, from payment received under the provisions of the act to which this act is a supplement or from any other income, as".

Amend page 25, section 32, line 57, omit "which is made available to such person, and", insert ".".

Amend page 25, section 32, lines 58-59, omit entirely.

Amend page 25, section 33, line 1, omit "33.", insert "36."

Amend page 25, section 33, after line 1, insert new subsection a. as follows:

"(New section) a. As used in this section, 'eligible resident' mean . a resident of a residential health care facility, rooming house or boarding house who is: eligible to receive services under the latest New Jersey Comprehensive Annual Services Program Plan for the use of funds appropriated under Title XX of the Federal Social Security Act; an 'eligible person' under the act to which this act is a supplement; an otherwise aged, blind or disabled person; or a resident designated to be eligible by the Commissioner of the Department of Human Services."

Amend page 25, section 33, line 2, omit "(New section) a.", insert "b."

Amend page 25, section 33, lines 3-4, omit "recipients of Supplemental Security Income, under P. L. 1973, c. 256, and other aged, blind or disabled persons residing in", insert "eligible residents of".

Amend page 25, section 33, line 7, after "Investigation", insert "and evaluation"; omit "harm or threats of harm to", insert "abuse or exploitation, as defined in section 38 hereunder, or of threats of such abuse or exploitation of eligible".

Amend page 25, section 33, lines 8-9, omit "of such facilities and referral of such reports, as necessary, to appropriate State and local authorities for remedial action", insert ", at the direction of the Commissioner of Human Services".

Amend page 26, section 33, line 10, after "Visits to", insert "all"; after "facilities", insert "having eligible residents, at regularly scheduled intervals"; after "of", insert "such"; omit "and", insert ",".

Amend page 26, section 33, line 11, omit "an".

Amend page 26, section 33, line 12, omit "level", insert "levels"; after "care", insert ", and to provide such services where appropriate".

Amend page 26, section 33, line 13, omit "such", insert "eligible".

Amend page 26, section 33, line 15, after "them", insert "; referrals of eligible residents to State, county and local agencies and organizations for any such services which county welfare boards cannot provide; and follow up to such referrals to determine whether such services are being provided"; omit "and".

Amend page 26, section 33, lines 16-19, omit entirely.

Amend page 26, section 33, after line 19, insert new paragraphs (4) and (5) and new subsection c. as follows:

"(4) Reporting of any suspected violations of the provisions of this act and of any complaints received concerning services and conditions in such facilities to the commissioner and to appropriate State and local agencies for remedial action; and

(5) Provision of information to eligible residents whose continued residence in such facilities may be injurious or dangerous to their health concerning alternative housing and living arrangements available to them.

County welfare boards shall coordinate all services provided under this subsection with services provided to eligible residents by the State Divisions of Mental Health and Hospitals, Mental Retardation and Youth and Family Services, charitable institutions and other State and local agencies and service providers.

c. In order to fulfill their responsibilities under subsection b. above, county welfare boards shall be entitled to receive full and free access to residential health care facilities, rooming houses and boarding houses by the owners and operators of such facilities, and to receive cooperation and assistance from State and local law enforcement officials as needed."

Amend page 26, section 33, line 20, omit "b.", insert "d."

Amend page 26, section 33, line 24, after "concerning", insert "suspected violations of the provisions of this act and concerning".

Amend page 26, section 33, lines 26-28, omit ", for the use of any State or local agency charged with responsibility for inspecting, licensing or supervising such facilities; and", insert "and shall maintain a record of the State and local agencies to which complaints have been referred by county welfare boards; refer any such complaints received by the commissioner to State and local agencies for remedial action as

necessary; and follow up all complaints to determine whether such action has been taken;”.

Amend page 26, section 33, after line 28, insert new paragraphs (3) and (4) as follows:

“(3) Provide such training and educational programs to the operators of such facilities as will enable them to appropriately respond to the needs of their residents;

(4) Designate agencies to:

(a) Identify those residential health care facilities, rooming houses and boarding houses in which substantial numbers of persons reside who are in need of mental health or mental retardation services;

(b) Receive referrals and be responsible for the provision of mental health or mental retardation services, or both;

(c) Report any apparent violation of this act to the appropriate State and local officials and authorities;

(d) Coordinate their efforts with county welfare boards, charitable institutions, the State Divisions of Mental Health and Hospitals, Mental Retardation and Youth and Family Services, and other State and local entities and service providers.”.

Amend page 26, section 33, line 29, omit “(3)”, insert “(5)”; after “to”, insert “eligible”.

Amend page 26, section 33, line 30, omit “of such facilities”; after “boards”, insert “and community agencies serving the mentally ill and the mentally retarded”.

Amend page 26, section 33, after line 30, insert new paragraph (6), new subsection e. and new sections 37 and 38 as follows:

“(6) Issue a report to the Legislature’s Standing Reference Committees on Institutions, Health and Welfare concerning the implementation of this section, 1 year following the effective date of this act.

e. Any person who submits or reports a complaint concerning a suspected violation of the provisions of this act or concerning services and conditions in residential health care facilities, rooming houses and boarding houses, or who testifies in any administrative or judicial proceeding arising from such a complaint, shall have immunity from any civil or criminal liability on account of such complaint, unless such person has acted in bad faith or with malicious purpose.

37. (New section) Title 30 of the Revised Statutes is supplemented as follows:

a. As used in this section ‘abuse’ means the willful infliction of physical pain, injury or mental anguish; unreasonable confinement; or, the willful deprivation of services which are necessary to maintain a person’s physical and mental health; and ‘exploitation’ means the act

or process of using a person or his resources for another person's profit or advantage.

b. Any person who has reasonable cause to suspect that a resident of a residential health care facility, rooming house or boarding house is suffering or has suffered abuse or exploitation, shall report such information in a timely manner to the Commissioner of the Department of Human Services or to the person or agency within the department designated by the commissioner to receive such reports.

c. Such report shall contain the name and address of the resident, information regarding the nature of the suspected abuse or exploitation and any other information which might be helpful in an investigation of the case and the protection of the resident.

d. The name of any person who reports suspected abuse or exploitation pursuant to this section and the name of any person mentioned in such report shall not be disclosed unless the person who reported the abuse or exploitation specifically requests such disclosure or a judicial proceeding results from such report.

e. Any person who reports suspected abuse or exploitation pursuant to this section or who testifies in any administrative or judicial proceeding arising from such report or testimony shall have immunity from any civil or criminal liability on account of such report or testimony, unless such person has acted in bad faith or with malicious purpose.

f. Upon receiving a report that a resident of a residential health care facility, rooming house or boarding house may be suffering or may have suffered abuse or exploitation, the commissioner shall promptly notify the Ombudsman for the Institutionalized Elderly when the report involves an elderly person as defined in section 2 of P. L. 1977, c. 239 (C. 52:27G-2), and shall direct the appropriate county welfare board to make a prompt and thorough evaluation of the report, or refer the report for such an evaluation by another appropriate government agency.

g. The evaluation shall be based upon a visit with the resident and consultation with others who have knowledge of the particular case, and shall contain written findings and recommendations. The person who reported the suspected abuse or exploitation, the victim of the suspected abuse or exploitation, the owner of the residential health care facility, rooming house or boarding house wherein the suspected abuse or exploitation has occurred, the State agency having a regulatory responsibility for the facility, and the Ombudsman for the Institutionalized Elderly when the case involves an elderly person as defined in section 2 of P. L. 1977, c. 239 (C. 52:27G-2), shall be promptly notified of such findings and recommended action.

h. If a determination is made that the resident may have suffered abuse or exploitation, the commissioner shall refer such findings, in writing, to the county prosecutor.

i. The commissioner shall maintain a central registry of all reports of suspected abuse or exploitation and all evaluations, findings and recommended action. No information received and compiled in such registries shall be construed to be a public record.

38. There is hereby appropriated \$204,000.00 to the Department of Community Affairs and \$46,000.00 to the Department of Health to implement the provisions of this act.''

Amend page 26, section 34, line 1, renumber as section 39.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 3111
with committee amendments

STATE OF NEW JERSEY

DATED: MAY 10, 1979

The Senate Revenue, Finance and Appropriations Committee finds the Senate Institutions, Health and Welfare Committee statement to this bill to be an accurate and sufficiently exhaustive explanation of the objectives and provisions of this bill, and concurs in that statement, except as to the appropriation level.

The Senate Revenue, Finance and Appropriations Committee, reviewing the bill pursuant to Senate Rule No. 86, finds that the Department of Community Affairs will require additional funds to implement its responsibilities under this act. This additional funding is provided through an appropriation of up to \$100,000.00 from the revenue to be derived from the license fees imposed in Section 7b. of the act, subject to the approval of the Director of the Division of Budget and Accounting. The Department of Community Affairs, then, will have a direct appropriation of \$204,000.00 plus an additional amount of not more than \$100,000.00 as may be approved by the Director of the Division of Budget and Accounting.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 3111

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 10, 1979

Amend page 14, section 18, lines 18-19, omit the phrase “*commissioner is authorized to conduct such field visits and audits as may be necessary, and the*”.

Amend page 14, section 18, line 20, after “the”, insert “commissioner is authorized to conduct such field visits and audits as may be necessary, and the”.

Amend page 29, section 36, line 19, omit “38”, insert “37”.

Amend page 31, section 37, line 3, omit “n”, insert “in”.

Amend page 32, section 38, line 3, after “*act.*”, insert “In addition, from the revenue derived as fees pursuant to section 7b. of this act there is hereby appropriated to the Department of Community Affairs such additional amounts as may be necessary to implement the provisions of this act, subject to the approval of the Director of the Division of Budget and Accounting, but, in no case, more than \$100,000.00.”.

ASSEMBLY INSTITUTIONS, HEALTH AND
WELFARE COMMITTEE

STATEMENT TO

SENATE, No. 3111

with Senate committee amendments
and Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1979

The Assembly Institutions, Health and Welfare Committee agrees with the Senate committee on the overriding importance and urgency of this boarding home legislation. The committee followed with great interest the exhaustive review and analysis of this legislation while it was in the Senate committee.

Senate Bill No. 3111, as an omnibus bill, categorizes boarding homes depending on the type of services offered by a particular facility. Rooming and boarding houses would be regulated by the Department of Community Affairs while the Department of Health would be responsible for residential health care facilities (RHCF's). This latter designation encompasses many of the facilities known as boarding homes for sheltered care.

This legislation also requires interdepartmental planning and the coordination of services under the auspices of the Department of Human Services. Social workers from county welfare boards would make regular visits to facilities to assess the needs of residents and to arrange any assistance they might need.

The Assembly committee made certain technical and minor amendments to the bill. Additionally, the committee gave the Commissioner of Community Affairs certain powers to vacate a rooming or boarding house if there is imminent hazard to the health, safety or welfare of the occupants. Also included in this section were rights for the owner or operator of such a facility to appeal the commissioner's decision, if so warranted.

The committee believes that this legislation may provide a consistent framework to what is presently a chaotic system of duplicative and competing statutes and regulations. The committee hopes that this bill will promote decent and humane care for New Jersey residents living in boarding facilities.

ASSEMBLY COMMITTEE AMENDMENTS TO

SENATE, No. 3111

[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 28, 1979

Amend page 3, section 3, line 8, omit "all", insert "a minimum of 85% of the".

Amend page 3, section 3, line 25, after "basis," insert "for a period lasting no more than 90 days,".

Amend page 3, section 3, line 25, after "resident", insert "either".

Amend page 3, section 3, line 26, omit ",".

Amend page 4, section 4, line 17, omit ", assessing", insert "for injunctive relief and for the assessment of".

Amend page 4 section 4, line 18, omit "compromising and settling", insert "compromise and settle".

Amend page 4, section 4, line 20, omit "taking", insert "take".

Amend page 6, section 7, line 22, omit "said", insert "the".

Amend page 7, section 7, line 37, omit "then".

Amend page 7, section 9, line 8, omit "then".

Amend page 8, section 11, line 1, after "11. (New section)", insert "a. If, upon inspection of any rooming or boarding house, the commissioner shall discover any violation of the provisions of this act, or any rules or regulations promulgated thereunder, which constitutes an imminent hazard to the health, safety or welfare of the occupants or intended occupants thereof, or of the public generally, the commissioner may issue and cause to be served on the owner or operator thereof a written order directing: (1) that the rooming or boarding house be vacated forthwith or (2) that the violation be corrected within the period specified in the order. The written order shall state the nature of any violation, the date and hour by which the rooming or boarding house be vacated or the violation be abated and, if necessary, the manner in which the violation shall be abated. A copy of the written order to vacate shall be sent to relevant county and municipal officials within 24 hours of its issuance.

Upon the receipt by the commissioner of written notice from the owner or operator of any rooming or boarding house vacated or ordered to be vacated stating that the violation has been terminated, the commissioner shall reinspect the rooming or boarding house within one working day of the receipt of the notice. If, upon reinspection, the

commissioner determines that the violation has been terminated, he shall rescind the order requiring the vacation of the rooming or boarding house and occupancy may be resumed forthwith. If reinspection is not conducted by the commissioner within one working day of the receipt of the notice, occupancy of the rooming or boarding house may be resumed forthwith.

Where the owner or operator of any rooming or boarding house denies that any violation justifying an order to vacate exists, he may apply to the commissioner for a reconsideration hearing, which shall be afforded and a decision rendered by the commissioner within 48 hours of the receipt of the application for the hearing. If the commissioner decides adversely to the owner or operator, the owner or operator may petition the Superior Court of this State for injunctive relief against any order of the commissioner directing that the rooming or boarding house be vacated forthwith.

Relief may be sought by an order to show cause and may be granted ex parte pending a hearing de novo, except that the only issue to be determined in the hearing de novo shall be the existence of any violation of the provisions of this act, or rules and regulations promulgated thereunder, which constitutes an imminent hazard to the health, safety or welfare of the occupants or intended occupants of the rooming or boarding house, or to the public generally.

Where the owner or operator of any rooming or boarding house denies that any violation justifying an order to abate within a specific period exists, the owner or operator may seek injunctive relief by an order to show cause, and relief may be granted ex parte pending a hearing de novo. However, the only issue to be determined in the hearing de novo shall be the existence of any violation of the provisions of this act, or rules and regulations promulgated thereunder, which constitutes a hazard to the health, safety or welfare of the occupants or intended occupants of the rooming or boarding house, or to the public generally.”.

Amend page 8, section 11, line 1, insert “b.”, before “If”.

Amend page 8, section 11, lines 7-13, omit entirely.

Amend page 8, section 11, line 14, omit “b.”, insert “(1)”.

Amend page 8, section 11, line 39, omit “c.”, insert “(2)”.

Amend page 13, section 17, line 47, omit “roominghouses”, insert “rooming”.

Amend pages 19-21, section 25, lines 1-88, omit entirely, renumber remaining sections accordingly as “25.” through “38.”.

Amend page 28, section 35, line 57, after “a”, insert “rooming or boarding house or”.

Amend page 28, section 35, line 58, omit "not less than \$25.00".

Amend page 28, section 35, after line 63, insert a sentence: "The personal needs allowance may vary according to the type of facility in which an eligible person resides, but in no case shall be less than \$25.00 per month."

Amend page 29, section 36, line 19, omit "37", insert "36".

Senate Bill No. 3111 (3rd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3111 (3rd OCR) at the time of signing it, this statement of the items or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

Senate Bill No. 3111 (3rd OCR) establishes a comprehensive system of licensing, inspection, coordination of services and centralization of complaints concerning boarding houses. This bill represents the culmination of nearly two years of investigation, analysis and discussion concerning unsafe and unsanitary conditions, abuse of residents and lack of services for residents of boarding houses and proposals to redress these problems. I fully endorse the goals of this bill.

Senate Bill No. 3111 (3rd OCR) would take the first step in providing a systemic solution to the problems of unsafe and unsanitary conditions and abuse and neglect of boarding house residents which continue to plague the State and threaten the lives of those living in boarding facilities.

This bill reflects some of the recommendations put forward by my Cabinet Task Force on Boarding Homes. The May 1978 Task Force report suggested the establishment of standards and licensing of currently unlicensed boarding facilities, the provision of services by county welfare agencies and the setting of variable rates in order to provide an incentive for boarding house owners or operators to upgrade their facilities.

Senate Bill No. 3111 (3rd OCR) would set standards and require licenses but instead of establishing a rate-setting program would require the Commissioner of Health to collect information concerning the costs and revenues of licensed boarding facilities.

The bill includes a \$250,000 appropriation for one-half year of inspection and collection of cost data. Full-year implementation would require \$500,000. The establishment of a rate-setting program would require an additional \$1.7 million the first year, \$4 million the second year, increasing to \$11 million for the fifth year. I note the cost of setting variable rates even though Senate Bill No. 3111 (3rd OCR) does not require this, because that it what is necessary to assure any real improvement in the condition of boarding facilities.

I was reluctant to sign this bill because I could not in good conscience sign into law a new program, even a program as worthwhile as this one, knowing that the funds necessary to implement the program are not available. Some may argue that this bill could be funded by cutting other programs. Such a position is untenable in light of the entire budget shortfall. I cannot even fulfill existing mandates.

Nonetheless, in spite of the fact that I was unable to provide funds in my fiscal year 1981 budget proposal for this program, so many members of the Legislature have stressed the need to institute a system of licensing and regulating boarding houses that I have agreed to sign this bill with the understanding that the Legislature will find the necessary \$500,000 for fiscal year 1981. Should the Legislature not be able to fund this program, then we should not confuse the public by continuing the statute on the books.

Since Senate Bill No. 3111 (3rd OCR), by its terms, does not become effective until 180 days after enactment, and since the appropriations in the bill exceed our State Cap, I am eliminating the appropriations contained in the bill, which were meant to provide funds for one-half year of implementation, I will direct the departments to provide the funds necessary to prepare for the start up expenses to implement the bill.

Accordingly,

On Page 34, Line 1: The \$204,000.00 to the Department of Community Affairs is eliminated in its entirety.

On Page 34, Line 2: The appropriation to the Department of Health is eliminated in its entirety.

On Page 34, Line 9: The additional appropriation of up to \$100,000.00 to the Department of Community Affairs from the revenue derived from licensing fees is eliminated in its entirety.

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

FEBRUARY 29, 1980

KATHRYN FORSYTH

Governor Brendan Byrne today signed S-3111, the "Rooming and Boarding House Act of 1979", and A-3075, a measure outlining a bill of rights for boarding house residents.

S-3111 was sponsored by Senator Anthony Scardino, Jr. (D-Bergen). A-3075 was sponsored by Assemblyman Thomas J. Deverin (D-Middlesex).

"The Rooming and Boarding House Act of 1979" represents the culmination of more than a year of investigation, analysis, review and discussion of unsafe and unsanitary conditions, abuse of residents and lack of services for residents in boarding homes.

The Department of Community Affairs has estimated that there are approximately 1,500 rooming and boarding homes in New Jersey, housing approximately 30,000 residents, which are currently unlicensed and unregulated.

In addition, there are 260 sheltered boarding homes, or residential care facilities, housing more than 10,000 individuals, which are annually licensed and inspected by the Department of Health.

The residents of rooming houses, boarding houses and residential care facilities are generally the elderly or disabled poor, including many former residents of mental institutions.

The bill is effective in six months, and Governor Byrne therefore line-item vetoed the appropriation in the measure for the current fiscal year. The governor's veto statement is attached.

S-3111 includes the following provisions:

--requires the Commissioner of Community Affairs to set standards and to annually inspect and license all rooming and boarding houses. The sets licensing fees and provides legal remedies for the enforcement of the standards.

--requires the Commissioner of Health to collect cost and revenue data on residential health care facilities in order to provide a basis for determining whether it is advisable to establish a variable rate-setting program for the facilities;

--directs county welfare agencies to make regular visits to rooming and boarding houses to assess the needs of residents, to arrange for any necessary assistance and to report any suspected abuse or exploitation of residents to the Commissioner of Human Services:

The measure also authorizes the Commission of Human Services to:

- coordinate the efforts of the county welfare boards, charitable institutions, and the divisions of Mental Health, Mental Retardation and Youth and Family Services
- facilitate the sharing of information among the Departments of Human Services Community Affairs, Health and the Ombudsman;
- act as the central referral agency for complaints of abuse or exploitation;
- ensure that boarding home residents receive adequate personal needs allowances; and
- work to secure maximum federal assistance for persons in residential health care facilities.

A-3075, requires owners or operators of boarding homes to guarantee the resident certain rights, including the right:

- to manage their own financial affairs;
- to wear their own clothing and determine their own dress, hair style and other personal effects;
- to retain and use their own personal property as long as it does not infringe on the rights of others;
- to privacy;
- to access to a telephone at a reasonable hour;
- to unrestricted visitation at reasonable hours;
- to retain the services of their own physicians;
- to present grievances;
- to a safe and decent living environment;
- to refuse to perform services for the boarding facility except under contract; and
- to practice their own religions.

The bill takes effect in 180 days.

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A copy of the line item veto is attached.



State of New Jersey

SENATE INSTITUTIONS, HEALTH
AND WELFARE COMMITTEE

ROOM 318-A
STATE HOUSE, TRENTON, N. J. 08625
TELEPHONE (609) 292-1598

ANTHONY SCARDINO, JR.
CHAIRMAN

WILLIAM J. HAMILTON, JR.
VICE CHAIRMAN

ANTHONY E. RUSSO
GARRETT W. HAGEDORN
JAMES P. VREELAND, JR.

M I N U T E S

Committee meeting of Thursday, November 30, 1978 in the Governor's Conference Room at 1100 Raymond Boulevard in Newark.

Committee members present: Senators Scardino, Russo and Vreeland

Staff members present: Bruinooge, Cosmos and Seel

Announced agenda: Section-by-section consideration of draft legislation proposed by the Department of Health's Advisory Committee on Boarding Homes.

The meeting began at 10:20 A.M.

Senator Scardino opened the meeting by remarking that by the end of the day he hoped to conclude the committee's review of the draft legislation prepared by the Advisory Committee on Boarding Homes. He anticipated no more than one other meeting on boarding home problems and hoped that by the end of the year the committee could agree on a package of corrective recommendations and legislation. He then requested Deputy Commissioner of Human Services Gerald Reilly (chairman of the Advisory Committee's Subcommittee on Legislation) to lead the committee, and all present, through the provisions of the omnibus bill.

SUMMARY OF ADVISORY COMMITTEE'S PROPOSED LEGISLATION (second draft)
AND ACCOMPANYING DISCUSSION

Section 1 - Name of the act (no discussion)

Section 2 - Explains the general purpose of the legislation (no discussion)

Section 3 - Defines terms used in the act, including "residential health care facility," "boarding house," "rooming house," and "single room occupancy." Mr. Reilly noted that changes would need to be made in the definition of "residential health care facility" (RHCF) to make the term conform to language used in the Health Department's draft licensing manual for such facilities. Further discussion ensued concerning this definition. Mr. Schirmer of the State Commission of Investigation (SCI) recommended an amendment to cover facilities serving "two or more"

individuals rather than the four or more. He said the SCI was concerned that omission of small homes from the strict RHCD standards would invite resident neglect and abuse in the homes. Mr. Reilly, Deputy Commissioner of Health Dave Wagner and William Connolly, Deputy Director of the Division of Housing and Urban Renewal in the Department of Community Affairs, all spoke in opposition to Mr. Schirmer's proposal. They observed that this would necessitate the hiring of many more licensing staff members: at great cost, that facilities with two or more residents are already covered by the State's Multiple Dwelling Act and that the proposed legislation would cover smaller units under the categories of boarding and rooming houses. Mr. Connolly noted that the bill would raise the penalties for failure to register with the Department of Community Affairs from the current \$200 to \$5,000. Mr. Reilly commented that one reason for raising standards for licensed sheltered boarding homes (and renaming them RHCF's) is to build the public's confidence in such facilities. One problem today is that people stay unnecessarily long in nursing homes because they have little confidence in the quality of care at boarding homes. If more people would move from nursing to boarding homes and the number of RHCF's would increase, more nursing home beds would be available to the many people now waiting for them. Mr. Schirmer commented that another SCI recommendation would be to require that financial services be provided in RHCF's. Some discussion then took place regarding whether boarding homes should be obligated to admit individuals for care. This would ensure availability of living space and services for needy people but it was agreed that it would be preferable to encourage cooperation between owners and public agencies (chiefly those releasing former mental patients into the community) so that the former would voluntarily accept those with need.

Section 4 - Requires coordination of services and responsibilities between the Departments of Health, Human Services and Community Affairs, the Ombudsman for the Institutionalized Elderly and designated local agencies. Mr. Reilly spoke of this section as "added insurance" for the future. "Local agencies" refers, primarily to units managed by municipal health officers and building inspectors. Mr. Reilly stated that perhaps the section should also require periodic reporting from the departments to the Governor and Legislature.

Section 5 - Requires the Commissioner of Health to determine rates of payment to residential health care facilities, based on elements of cost specified by the commissioner. Mr. Reilly explained that his subcommittee avoided extending this rate-setting provision to boarding and rooming houses because so little is now known about the boarding home industry. To Mr. Schirmer's concern that under a rate-setting system for RHCF's an operator might kick out self-paying patients if he could get more money from the revised SSI rate, Mr. Reilly responded that this might indeed be a problem in the long term. In the short term, however, there would be a desirable leveling of rates for SSI and self-paying residents. In a comment that referred back to section 3, Sen. Vreeland said he was worried that tougher regulations

for RHCF's would squeeze small businessmen out of the market because they wouldn't be able to comply. This concern was echoed by several others, who felt that it is especially important to encourage the development of small boarding homes, which are able to maintain a home-like atmosphere. Mr. Reilly commented that the State would have to be very careful to develop reasonable regulations that squeezed out not the "little guy" but the "bad guy." He noted that there is a provision in the draft bill to allow, under certain conditions, a waiver of standard for boarding and rooming houses. The hard regulatory task is to learn to measure, somehow, the "quality of life" in institutions. Mr. Wagner stated that regulations must not drive us away from boarding homes to mini-institutions. Regulations should specify that there must be a home-like atmosphere and try to define its components. The chairman said that this issue was important enough that there should be language of intent in the bill itself or at least some mention in a future committee statement of the importance of preserving small facilities. Introducing another issue, Stephen Blader of the Department of the Public Advocate (DPA) proposed that the legislation include a "utilization review" requirement to make sure that people really need the care they will be getting. James Cunningham of the N.J. Association of Health Care Facilities said it would be a mistake to let medical doctors do utilization review on non-medical matters (as outlined in the DPA draft language). Mr. Reilly agreed with both opinions. Benson Rosenberg, Director of the N.J. Association of Non-profit Homes for the Aging, expressed the view that there should not be utilization review for people 65 and older because they should be able to live where they want. Mr. Blader said his department could accept such a limitation. Mr. Cunningham then commented that there should be some guarantee in the rate-setting language of a "growth" or "reasonable profit" factor in the elements of cost that would be considered. This brought an expression of support from Mr. Reilly who felt that any rate must be reasonable and that "profit" is often unfairly disparaged.

Section 6. - Amends the State's SSI statute. Subsection g. was explained by Mr. Reilly as language to tie New Jersey in with any federal effort to create a Medicaid funding category for boarding facilities. Subsection h. calls for a periodic assessment and supplementation of the SSI rate for those who reside in RHCF's, not to exceed the rates established by the Department of Health. In response to the chairman's question about the cost of this provision, Mr. Reilly noted that the bill carries an appropriation of \$3 million. Ultimately the costs of rate-setting would be considerably higher, but the subcommittee on boarding home legislation felt that prior to knowing what the costs of RHCF's are, the SSI rate should not be raised too much. This comment elicited a report from Steven Fritsky, Acting Director of Program Analysis in the Legislature's Office of Fiscal Affairs, who had been asked by Senator Scardino to conduct a study of the costs of RHCF's and the adequacy of the current SSI rate for their expenses. Mr. Fritsky began by saying that all the data had not yet been tabulated, but so far it did not seem to support the claims of either those who feel that licensed boarding homes are collecting unreasonable profits from SSI or those who maintain that the SSI rate (currently \$315 /mo.) is much too low. (Mr. Reilly later commented that both results could be true). This is partly because OFA received a very disappointing response (25%) to its questionnaire and because financial record-keeping is "atrocious" in the licensed boarding homes. Mr. Fritsky cautioned that furthermore, OFA would not be able to validate the cost data it received from the boarding homes. Within two or three weeks he would be able to present to the committee a fuller report, with data concerning the distribution of costs and income. The range of costs so far seen by OFA is very great: from \$5 - \$17.50 per resident per day, the average being between \$10 and \$11. Mr. Schirmer observed that without knowing what services a home provides it is difficult to evaluate its costs. On the question of State cost, he noted that the expense would be much greater than \$3 million annually in the future if the number of RHCF beds grows as expected. Mr. Reilly agreed, saying that the \$2 million increase for SSI was just start-up expense. The chairman then asked if it was possible for SSI recipients in licensed homes to be paying an extra amount to the home out of their own assets (They may, under SSI regulations, have up to \$1,500/mo. in cash assets). A representative of the Social Security Administration stated that it was possible for a person to have up to \$335 in monthly income from a pension or social security and still qualify for SSI. Mr. Schirmer commented that under the landlord-tenant relationship which exists between boarding home owner and resident, an owner can demand funds up to what a person can pay. But this is self-limiting, because most people don't have many assets. Mr. Reilly pointed out that the draft legislation breaks up the existing landlord-tenant relationship in RHCF's by inserting the State of New Jersey as the third party vendor. Subsection i. requires that a personal needs allowance be made available to SSI residents in RHCF's and the amount be reviewed and periodically adjusted by the Commissioner of Human Services. John Fay, Ombudsman for the Institutionalized Elderly, received assurance that this provision would entail auditing to ensure that the needs allowance is actually being given.

Section 7 - Requires that recipients of General Assistance in RHCFS receive the same level of assistance as those receiving SSI. According to Mr. Reilly, the cost of this would be very small because of the small number of individuals affected, but municipalities might object to the provision because of the increased cost (though also small) to them.

Section 8 - Amends the Health Care Facilities Financing Authority Act to insert the terms RHCFS and community mental health center (no discussion).

Section 9 - Authorizes the New Jersey Economic Development Authority (EDA) to finance the capital construction of health care facilities. Mr. Reilly said that this provision may not be necessary since a broad interpretation of the EDA act gives the Authority the right to do this now.

Section 10 - Emphasizes that aid under the Relocation Assistance Act would go to any persons displaced pursuant to action taken by the Health Department under the Health Care Facilities Planning Act.

Mr. Reilly stated that Mr. Connolly would review the remainder of the bill for the committee since it dealt with the new categories of facility to be licensed and regulated by the Department of Community Affairs. He added that provisions covering two other issues, casework services and protective services, should be inserted in the first portion of the bill.

After a lunch recess, Mr. Reilly told the committee that in his opinion, one other provision should be added to the legislation: language creating a State financing authority for boarding homes. This is needed because private industry is reluctant to invest in these facilities.

In turning the explication of the final portions of the draft bill over to Mr. Connolly, Mr. Reilly suggested that much of the ensuing language could probably be put in regulations but the bill's drafters tried to make the legislation as complete and "air-tight" as possible.

The remaining discussion dealt in a general way, not section-by-section, with the proposed licensing and regulation of boarding and rooming houses by the Department of Community Affairs. Mr. Connolly commented that the bill used a municipal rather than professional model of licensing, in that the licensing is tied to ownership of a particular kind of facility, not to the services provided therein. There would be no corporate immunity under the proposed language; offenses would always be charged to a particular individual. Furthermore, the bill provides for the rights of tenants, backed up by the enforcement power of the State. The legislation also requires that there be referral of residents for social services (Section 11, subsection b.). To this, Mr. Reilly noted that there is presently irony in the fact that if one doesn't provide services he can be within the law, yet if he does, while operating without Department of Health licensure, he is afoul of the law.

Jean Kramer of the Home Health Agency Assembly of New Jersey stressed that social services referral should include referral for home health services. Mr. Reilly commented that perhaps regulations could specify that boarding homes must be open to visits of home health personnel.

There followed a discussion of whether there would be sufficient incentive under the provisions of the bill for individuals to operate boarding houses rather than rooming houses. The former would be required to provide personal services but owners would not receive any additional payment from SSI to cover the cost of providing the services. Mr. Blader advised the deletion of all references to "boarding houses," partly due to his fear that there would be no incentive to operate them and partly on the grounds that the Department of Community Affairs does not seem to have the expertise to evaluate personal services. Mr. Connolly said that under the terms of the bill financial services would not be demanded of an owner. An owner not providing such services would simply be licensed under the category of rooming house. However, there would be some incentive to operate boarding houses because an owner could charge self-paying residents more money for the extra services provided and presumably, make more money himself. It might be possible to provide a higher SSI rate for boarding houses than rooming houses but under federal standards only five SSI payment categories are permitted and all five are now being used. Furthermore, this would cost the State additional money.

To a question from the Chairman, Mr. Reilly replied that the preponderance of existing licensed sheltered boarding homes are expected to become RHCF's if the draft legislation is ultimately passed. The proposed regulations for RHCF's would burden the facilities with extra expense, but the department wouldn't put the regulations into effect until a rate-setting system could be developed to provide RHCF's with the money they would need.

Mr. Schirmer then expressed a concern that those who place people in various boarding or nursing facilities do so appropriately. If people can't be placed where most appropriate, then they should be kept on a roster so that when an appropriate placement is available they can be moved. Mr. Blader said that his department's proposal for a pilot project in casework services would help ensure appropriate placement. Mr. Reilly then sought to address the question, "What can the State demand in the way of placement of the deinstitutionalized?" by expressing his department's position. This is that at the very least, those who are deinstitutionalized must be assured a "safe landing." Thereafter, if they don't want services or want to go elsewhere, then the State must let them. They must be free to live their own lives unless they are dangerous to themselves or others. Mr. Reilly felt that "we should build a net under people rather than a cocoon around them," because the State has limited resources and is limited philosophically in the extent to which it can "manage" people. Mr. Schirmer then countered that it was the position of the SCI that the condition of people who "need supervision" (admittedly an arbitrary standard) should be followed-

up after the initial placement, while the condition of others need not be.

Mr. Reilly summarized the latter portion of the draft bill as "management by exception": a careful step-by-step sanctioning process in order to get compliance. Mr. Connolly commented that the bill attempts to bring about a cooperative relationship with municipalities to ensure no overlapping of duties.

The chairman then brought the meeting to a close, outlining the issues which would be discussed at another, final meeting on boarding home matters. This would be held, if possible, before the end of the year.

The meeting adjourned at 3:40 P.M.



State of New Jersey

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

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M I N U T E S

Committee meeting of Thursday, January 4, 1979 in the Senate Majority Conference Room, Trenton, beginning at 10:00 A.M.

Committee members present: Senators Scardino, Hamilton, Russo and Vreeland

Staff members present: Bruinooge, Cosmos, Salayi and Seel

Announced agenda: Completion of a review of draft legislation proposed by the Department of Health's Advisory Committee on Boarding Homes; Discussion of related items.

The meeting began at 10:40 A.M.

The chairman reviewed what had been discussed at the committee's last session on boarding homes on November 30, 1978. He expressed optimism about eventual passage of some form of the omnibus boarding home bill and stressed that it was the committee's goal to ensure above all that quality care was provided to residents of boarding homes.

William Connolly of the Department of Community Affairs (DCA) then led the committee through the final portion of the omnibus legislation discussed at the previous meeting. This portion predominantly is concerned with enforcement actions available to DCA in the event that rooming and boarding houses do not meet standards set for them. There would be five enforcement actions that the department could take: 1) assessment of civil penalty; 2) revocation of license; 3) petition for mandatory injunctive relief; 4) order for limited receivership; and 5) order for full receivership. Other sections of the draft bill specify an owner's right to a hearing, specify that an owner be subject to one set of regulations and inspectors only, and require sharing of information and cooperative enforcement between State and municipal officials.

There followed a discussion of the estimated \$3 million in initial year costs for implementation of the draft bill. \$500,000 of this amount would go to the Department of Health (DH) for expansion of its rate-setting system and for hiring additional personnel to inspect residential health care facilities (RHCF's). DCA would also get \$500,000 for the extra administrative unit it would create to license and inspect rooming and boarding houses. The remaining \$2 million would be spent by the Department of Human Services (DHS) for a projected 11% increase in the Supplementary Security Income (SSI) payment for residents of RHCF's (currently about \$9.50/day or \$315/mo., less a personal needs allowance). The chairman requested that by the next meeting there be prepared a summary of the precise number of inspectors available to DCA and DH now and the number needed to implement the provisions of the bill. Gerald Reilly of DHS commented that according to estimates that are conservative, if anything, the additional annual SSI cost five years from now (to pay the rates set by DH) would be \$16 million. The chairman then asked for a detailed breakdown of these estimated costs, year by year through 1984. Mr. Reilly noted that FY '80 costs could be kept to a few hundred thousand dollars if the initial year was used to simply get ready for implementation of expanded licensing and rate-setting. To a question as to what could be done by State agencies should no additional funds be appropriated by the Legislature, Mr. Reilly responded that present resources would have to be used effectively to deal with crises. "Crisis management" would be all that could be done. Systemic changes (e.g. to upgrade housing stock) would be impossible.

Sen. Hamilton, while expressing his respect for the talent and effort that went into the preparation of the omnibus bill, commented that he wasn't at all sure that additional millions should be spent on the proposed rate-setting and licensing program. In any event, it appeared unlikely that any increased funding was within the financial means of the State at this time. Furthermore, even with the omnibus plan there would be no fail-safe system. There might be new problems, like inordinate profit-taking on the building of new facilities.

The chairman then said he shared Sen. Hamilton's view that more dollars aren't always the answer to social problems. But he felt that this was possibly a special situation where more money might indeed be needed. The important thing was to decide on the right approach, then do whatever was possible to get the necessary funding.

Sen. Vreeland also expressed support for Sen. Hamilton's opinions. He was concerned that a new bureaucracy would be created for reasons not entirely worthwhile.

Sen. Russo spoke in favor of the thrust of the legislation, while cautioning that the State's resources are limited.

Former Senator John Fay (now Ombudsman for the Institutionalized Elderly) addressed the committee with a plea for immediate action to correct immediate problems. He said that if he had \$500,000 he would put it in DCA to find and track the currently unlicensed facilities where most of the abuses and problems lie. These homes can and should be found since there is no mystery about where they are concentrated in the State. Mr. Fay said his office also strongly supported supplemental legislation to: extend the bill of rights to boarding home residents; provide protective services for the elderly; and give communities with large numbers of boarding homes an extra share of urban aid funds.

Peter Schirmer of the State Commission of Investigation (SCI) observed that the omnibus bill gave no assurance that existing problems would be eliminated. It carried the assumption that existing governmental bodies have done their job adequately, when this is not so. The departments are not enforcing existing regulations well enough. Here is where attention should be focused. Members of the committee and Mr. Reilly agreed that new standards and programs could not ensure quality administration, but this was a problem that had to be separately addressed. Mr. Schirmer was pressed to give specific examples, if possible, of how standards have not been enforced and the quality of care has been ignored.

Mr. Reilly, responding to a question from the chairman, said that passage of the bill would probably free Medicaid nursing home beds for people now on the waiting list, but this would not mean any reduction in State expenses. The chairman then commented that if the bill could free Medicaid beds this was an argument for its passage.

The chairman asked Mr. Reilly to assemble copies of correspondence from DHS to federal legislators and officials, recommending federal action to address the needs of boarding home residents.

The committee adjourned for a one hour lunch recess and returned at 2:00 P.M.

Stephen Blader of the Department of the Public Advocate asked the committee to consider a "utilization review" provision in the legislation. This is already being done for 19,000 people in nursing homes and should be extended to RHCF's if they will be getting considerably more money under a rate-setting system. Mr. Reilly took note of the opposing view that because these are homes, anyone who wants to should be able to stay in them. But

he agreed with Mr. Blader that if a special governmental rate is being paid, there should be utilization review. The chairman said that he was especially concerned that there be some way to get RHCF care for people who need it and are not getting it now. Mr. Blader argued that it would be bad policy to "hunt" for people in need, but that protective services legislation could require that responsible professionals--psychiatrists, doctors, social workers and nurses--identify people in need and refer them to RHCF's.

The committee next discussed the possibility of a supplementary proposal for a State financing authority for the construction and renovation of rooming and boarding houses. Assistance could perhaps be provided through the existing Mortgage Finance Agency in DCA. Mr. Connolly agreed to explore this possibility.

The committee then invited comments on the question of which department or departments should have jurisdiction over boarding home matters. Mr. Schirmer presented the SCI's recommendation that sole responsibility for supervision of boarding facilities be given to DHS. He argued that this was logical because boarding homes were primarily social in nature and DHS is the State's social services agency, with responsibility for SSI supplemental funding, supervision of county welfare agencies and mental health services, all of which directly affect the well-being of boarding home residents. There is merit too, in having a single agency responsible for all matters pertaining to boarding homes. Mr. Reilly, and David Wagner of DH, both opposed the SCI's recommendations on jurisdiction. Mr. Wagner cited the Health Care Facilities Planning Act of 1971 as evidence of the Legislature's intent to separate the inspection function from the service function, giving the former to DH. Mr. Reilly agreed, saying that the agency that provides services ought not to be in a position to license itself. He commented that there is no "magic" in putting responsibility in one agency. Problems of coordination will still occur there.

Joy Meyers of the National Association of Social Workers--N.J. Branch said that it was very important in any legislation to identify who was responsible for getting services to people in boarding homes. Mr. Wagner noted that both in the draft bill and in the RHCF draft manual the owner is responsible to refer residents for services.

Benson Rosenberg of the Association of Non-profit Homes for the Aging proposed that there eventually be two standards of licensing, one for proprietary and one for non-profit facilities, since these are so different in population and orientation.

The Rev. Ralph Reynolds, a Health Systems Agency member, proposed legislation to create teams of experts and ordinary citizens (the HSA model) to make recommendations for boarding home care.

The chairman then took note of the fact that the Office of Fiscal Affairs had completed its study for the committee of the costs of operation of licensed sheltered care facilities. There would not be time to discuss the report today, but its recommendations would be reviewed at the next meeting of the committee.

The chairman expressed support for the proposal to extend the nursing home bill of rights to boarding home residents. He suggested that this and DPA's proposal for a pilot project in case management for boarding homes be held for further discussion later.

The closing moments of the meeting were devoted to a discussion of the consequences should the committee recommend that rooming and boarding houses be licensed, yet not grant authority to fund a rate-setting system. Mr. Reilly and Mr. Connolly said that if this happened then DCA could not fully enforce its standards because to do so would mean that some rooming and boarding houses would be closed down and there would be nowhere for their residents to go. A key element of the omnibus plan is the raising of SSI rates to encourage a growth in RHCF beds. Mr. Wagner suggested that one approach the Legislature could take would be to endorse the systemic approach, yet make implementation of a rate-setting system contingent upon later authorization of funding. James Cunningham of the Association of Health Care Facilities said that he was fearful of a program of government standards and licensing that did not also have adequate funding. He had supported the omnibus bill on the condition that such funding would be a part of it.

The chairman stressed that he wanted to be sure that every possible resource in the departments' existing budgets is exhausted before a recommendation is made for any additional appropriation. He asked that for the next meeting the departments offer the committee several funding level options with an explanation of the consequences of each, including an option of no additional funds.

The chairman also asked that Mr. Reilly prepare for the committee a summary of administrative steps that have already been taken (since the SCI and committee hearings last summer) to address the needs of people in boarding homes.

The meeting adjourned at 4:30 P.M.



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M I N U T E S

Committee meeting of Thursday, January 25, 1979 in Room 438 of the State House Annex, beginning at 10:00 A.M.

Committee members present: Senators Scardino, Hamilton, Russo and Vreeland

Staff members present: Bruinooge and Salayi

Announced agenda: Review of minutes of 1/4/79 and 1/18/79 meetings; Presentation by Gerald Reilly, Deputy Commissioner of Human Services; Committee approval for introduction of draft omnibus boarding home bill; Consideration of supplementary draft boarding home legislation.

The meeting began at 11:00 A.M.

1. Minutes

The committee approved the minutes of its meetings on January 4 and 18, 1979.

2. Presentation by Deputy Commissioner of Human Services and ensuing discussion

As requested by the chairman, Mr. Reilly offered varied estimates of the cost of implementing the omnibus boarding home bill, depending on certain assumptions.

Mr. Reilly then submitted a memorandum, also prepared at the chairman's request, which summarized the administrative steps taken since last summer to correct boarding home abuses and to address the needs of residents. Mr. Reilly commented that one administrative action had been left out of the memo: the Department of Human Services was preparing to make \$300,000 in new federal Title XX money available to county welfare agencies for services to boarding homes.

Members of the committee asked Mr. Reilly (and others present representing the Advisory Committee on Boarding Homes) a series of broad questions concerning the omnibus bill. The questions to some extent reflected reservations about the need for comprehensive licensing legislation.

The chairman said the questions were asked because before the committee could recommend a bill to the Legislature it had to first be convinced itself of the need for it. But he also noted that it was necessary to anticipate questions of the press and of other legislators so that the committee could prepare itself to answer them. Questions such as these were asked, and then addressed by Mr. Reilly: Are we going too far too fast by recommending this bill? How can we be sure that new organization and more money for licensing will actually result in improved care? Won't this bill cause an increase in professional help to boarding home residents, when what we really need is more help from families and volunteers? Can't we make all the really significant changes without legislation? Will this bill get help to the ones who most need it--those who are now completely unknown to the social service, mental health or welfare systems?

Steven Fritsky and Alan Kooney of the Office of Fiscal Affairs (now the Division of Budget and Program Review) then briefed the committee on their study of the costs and resources of sheltered care facilities in the State.

Of all the provisions that were in, or might be inserted in, the omnibus bill, the committee concentrated on three. These had to do with rate-setting, tracking and inter-departmental cooperation.

The Advisory Committee recommendation to give the Department of Health power to set rates for residential health care facilities (RHCF's) was found unacceptable by the committee. In the recommendation, rate-setting would be coupled with a provision mandating that Supplemental Security Income (SSI) payments be adjusted to accord with the rates. The committee felt that not enough is presently known about the financial needs of RHCF owners to justify spending large sums of money in rate-setting and raising SSI payments (and the OFA study seemed to bear this out). But compromise possibilities were suggested by Mr. Reilly. The committee could grant rate-setting authority now, but require that before rates are actually paid, some sort of legislative approval must be given. Or the authority to set rates could be given but payment could be made contingent upon enactment of new legislation. Or the Legislature could express its intent to decide at a later date whether rate-setting is a good idea (after receiving cost data collected by the department). James Cunningham of the

Association of Health Care Facilities warned that no rate-setting system should be without a guarantee that under it, SSI rates would be fully funded.

The committee spent a considerable amount of time debating with Mr. Reilly and his associates whether some sort of "tracking" system is needed. Uses of the term varied but at issue was the question of how certain elderly and disabled people in need - those who are now alone and unhelped - can be located. Mr. Reilly opposed a thorough scanning of the SSI rolls as a waste of resources. Peter Schirmer of the State Commission of Investigation reiterated the SCI's view that a tracking or following of certain former mental patients into the community is needed. But he also stated that the privacy of people must be protected and that the SCI assumed that if an SSI recipient is living alone then he or she must not be in need of help. Sen. Hamilton challenged this assumption. David Lazarus of the Community Mental Health Law Project recommended that county welfare agencies be required to reach out to boarding homes and other locations to provide social services and to assess needs. Mr. Reilly also supported a role for county welfare agencies but felt it should be more modest in scope - possibly limited to responding to complaints. A proposal for a demonstration project in comprehensive "case management" was supported by Herbert Hinkle of the Department of the Public Advocate and Arthur Rittmaster of the Association for Advancement of the Mentally Handicapped.

On the issue of inter-departmental cooperation, the chairman stressed that stronger, more specific language was needed than that presently in the draft bill. He suggested that elements of the "Memorandum of Understanding" cited earlier by Mr. Reilly could be inserted in the bill. (The Memorandum of Understanding is an agreement recently signed by the Commissioners of Community Affairs, Health and Human Services and by the Ombudsman for the Institutionalized Elderly, to form a policy coordinating committee on boarding homes and to share certain important information.)

3. Conclusions

As the committee neared adjournment, the chairman announced that he would seek to introduce the omnibus bill, with certain changes, on the 8th of February (no quorum was present to enable the committee as whole to decide whether to introduce the bill). It was possible that he would also introduce supplementary bills to guarantee certain rights for residents and to provide protective services to them.

The meeting adjourned at 4:05 P.M.



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M I N U T E S

Committee meeting of Thursday, February 22, 1979 in Room 438 of the State House Annex, from 10:00 A.M. - 12:00 Noon and 2:00 - 4:00 P.M.

Committee members present: Senators Scardino, Hamilton, A. Russo and Vreeland

Staff members present: Bruinooge and Seel

Announced agenda: Review of minutes of 2/7/79 and 2/15/79 meetings; Consideration of boarding home and related legislation

The meeting began at 10:45 A.M.

1. Committee statements

On motions by Sen. Hamilton seconded by Sen. Russo, the committee unanimously agreed to approve the statements prepared by staff for A-205 Sca, S-1260 Sca, S-220 Sca, S-1451 Sca, A-1510 and A-1674. These bills had been favorably released at the committee's previous meeting on 2/15/79.

2. Change in plans

The chairman announced that the hearing on prevention of chronic illness, which had been planned for March 1 in Hackensack, would be postponed to April 5 at the same site.

3. S-3111 (The "Rooming and Boarding House Act of 1979," introduced by all five committee members and two other sponsors on 2/20/79)

S-3111 is the same as the draft legislation recommended by the Department of Health Advisory Committee on Boarding Homes, but with some additions and changes. These include: 1) a technical rearrangement of provisions; 2) a section of legislative findings; 3) the addition of language requiring standards for boarding and

rooming houses and residential health care facilities (RHCF's) to provide for free access to such facilities, protection of the rights of residents and opportunity for residents to live with independence and autonomy; 4) expansion of the provision requiring interdepartmental coordination; 5) technical amendments to account for the change in name of boarding homes for sheltered care to residential health care facilities; 6) removal of the provision requiring periodic assessment and supplementation of the Supplementary Security Income rate for RHCF's; 7) revision of the section calling for rate-setting by the Department of Health for RHCF's to instead require the department to simply collect information on the costs and resources of RHCF's; 8) a new section requiring county welfare agencies to provide services to residents of boarding facilities; and 9) removal of the appropriation.

(The Advisory Committee's draft bill had been discussed by the committee in meetings on 11/30/78, 1/4/79 and 1/25/79.)

The committee reviewed all but the last section (#33) of S-3111, entertaining comments from the audience and asking for certain amendatory language to be prepared by staff for later approval.

The chairman announced that S-3111 and the other bills on today's agenda would again be discussed at the scheduled meeting on March 8 in New Brunswick.

The meeting adjourned at 4:00 P.M.

require owners of boarding facilities to grant full and free access to caseworkers; provide immunity from liability to those who submit complaints concerning services and conditions at residential health care facilities, rooming houses or boarding houses; and require periodic visits to such facilities by agencies serving the mentally ill and the mentally retarded.

The committee also approved Senator Hamilton's suggestion that language be added to require the Commissioner of Human Services to report to the Legislature on the implementation of the section.

The chairman closed the meeting with the announcement that at its next meeting (probably on March 29) the committee would review all the amendments to S-3111 considered thus far and seek to vote on final approval of the bill.

The meeting adjourned at 4:15 P.M.



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M I N U T E S

Committee meeting of Thursday, March 8, 1979 in Room A of the Rutgers Continuing Education Center, New Brunswick, beginning at 9:30 A.M.

Committee members present: Senators Scardino, Hamilton, A. Russo and Vreeland

Staff members present: Bruinooge and Seel

Announced agenda: Review of minutes of 2/13/79 and 2/22/79 meetings and summaries of 2/7/79 and 2/20/79 hearings; Consideration of S-3111, A-1033, S-3110, A-514, S-710, A-1265, A-204, S-3043 and Scs for S-252 and S-655.

The meeting began at 10:45 A.M.

1. Review of minutes and summaries

The committee approved the minutes of its meetings on February 13, 15 and 22, 1979 and the summaries of its public hearings on February 7 and 20.

2. S-3111

The chairman announced that the committee would consider the provisions of section 33 of the bill, the only section yet to be reviewed in public session.

Consideration of section 33 of S-3111 proceeded for the rest of the day, preventing consideration of the remaining bills on the committee's agenda. This other legislation will be reviewed at future meetings of the committee. Testimony was presented by an array of State and county administrators, private providers and private citizens, with special representation from county welfare boards. This section requires county welfare boards to provide certain services to residents of rooming and boarding houses and residential health care facilities.

The committee agreed to consider a revised version of section 33 recommended by Senator Hamilton and prepared by David Lazarus of the Community Mental Health Law Project. In addition to rearranging some of the section's provisions, Mr. Lazarus' revision added to the responsibilities which would be given to county welfare boards.

The main issues covered by the day's discussion were these:

- whether the Ombudsman for the Institutionalized Elderly should be notified of all complaints and reports of harm that come to the attention of welfare boards (This will be resolved when the committee gives final consideration to amendments to the bill);
- whether S-3111 will not simply cause unnecessary confusion and difficulties for boarding home owners, and bring a host of agencies down upon them--a point raised by Harold Katz, head of the New Jersey Licensed Boarding Home Council (Committee members and Gerald Reilly of the Department of Human Services maintained that the bill would, on the contrary, bring order and a clarification of responsibilities to the boarding home scene);
- whether the bill should specify how frequently county welfare board workers should visit facilities in order to provide services (The committee felt this should remain unspecific, since need could vary from home to home and from resident to resident, and regulations could provide this specificity if necessary);
- whether the bill doesn't require an assessment of residents' needs by welfare board workers that would require the hiring of many more caseworkers at great expense (The committee decided that in its accompanying statement to the bill it would declare its intent that these are to be overview visits by caseworkers, not time-consuming and costly detailed reviews of the case of each resident in a facility);
- whether mandatory reporting of abuse and exploitation should be required, either as a part of S-3111 or by means of S-3110 (The committee decided to postpone a final decision on this until the next meeting, but concluded that if such reporting is required it should be done as an addition to S-3111--with reports going to the welfare boards--rather than through S-3110).

The committee agreed to four additional provisions recommended by Mr. Reilly. These would require law enforcement agencies to provide assistance to county welfare boards as needed;



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M I N U T E S

Committee work session of Thursday, March 29, 1979 in Workers' Compensation Courtroom 8 of the State Office Building in Newark, beginning at 10:00 A.M.

Committee members present: Senators Scardino and Russo

Staff member present: Bruinooge

Announced agenda: Review of minutes of 3/8/79 meeting; final consideration of S-3111 with proposed amendments; consideration of A-1033 and A-514

The session began at 10:50 A.M.

1. Consideration of S-3111 and proposed amendments

The chairman announced that the committee's staff would lead the members through prepared amendments to the bill, proceeding section-by-section, and the public would have an opportunity to comment as each section was explained.

Summarized below are those amendments and comments which were especially noteworthy or elicited significant discussion:

(1) Both at p. 2, s. 3 line 15 and p. 19, s. 24, line 13, provisions were proposed which exempted from licensure facilities "... operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner." Under questioning, Gerald Reilly of the Department of Human Services stated that their purpose was not to remove government facilities from normal operating standards, but to ensure that such agencies are not subject to duplicative standards. If such a facility is not meeting the standards of S-3111 while under State supervision, then the relevant commissioner (Community Affairs or Health) could deny it exemption from the provisions of S-3111.

(2) At p. 5, s. 6, lines 23-25 and again at p. 20, s. 26, lines 17-18, the proposed amendments were revised to limit access

of private citizens to rooming houses, boarding houses and residential health care facilities. In response to objections raised by James Cunningham of the Association of Health Care Facilities, the language was changed to require anyone who is not an employee of a public or private agency to first obtain the consent of the resident to be visited before being given access to a home.

(3) At p. 8, s. 10, lines 40-42 and following, a provision authorizing receivership in certain cases, language was inserted to give the court more guidance with regard to its possible judgments and to insert a structure parallel with that of the existing receivership law for nursing homes.

(4) At p. 10, s. 12, after line 8 and at p. 24, s. 31, after line 24, new sections were inserted at the suggestion of the Department of Human Services to prohibit retaliatory action by an owner, operator or employee of a boarding facility for certain specified activities of a resident or a person acting on his behalf.

(5) At p. 19, s. 24, line 5 following, language was proposed to expand the definitions of "residential health care facility" and "resident" in the existing licensing act. These provisions would further clarify the differences between boarding houses and residential health care facilities under the bill.

(6) At p. 20, s. 24, line 24, the amendments were revised to clarify that physicians may order nursing or home health services for residents as long as these do not approximate the 24-hour skilled nursing services provided by nursing homes.

(7) At p. 25, s. 32, line 56, the proposed amendments were explained as necessary because the bill's existing language governing a personal needs allowance was appropriate only for a cost-related rate-setting system for residential health care facilities. The amendment does not imply that residents who are pending Supplementary Security Income approval must be given a needs allowance out of the pocket of the owner.

(8) Major modifications were proposed to s. 33 on pp. 25 and 26 of the bill. Many of these either give additional responsibilities to county welfare agencies and the Commissioner of Human Service or clarify the division of responsibilities between them. Some of these proposals are mentioned in the minutes to the committee's meeting on March 8. At p. 25, s. 33, after line 1, a new subsection a. was proposed to define further who would be eligible for county welfare agency services. Those eligible would be a fairly large group, and include those on the SSI rolls, those receiving social services under Title XX of the Social Security Act, all aged, blind or disabled persons, and any other residents designated to be eligible by the commissioner. Nevertheless, the commissioner would need to carefully identify the eligible categories of residents for county welfare boards so that caseworkers know whom to visit.

(9) Alternative amendments to require reporting to the Commissioner of Human Services of suspected cases of abuse and exploitation of residents were also presented to the committee. These had been prepared by staff for discussion purposes at the direction of the chairman. These provisions were strongly endorsed by several individuals in attendance at the meeting, notably John Fay, State Ombudsman for the Institutionalized Elderly, who called them the most important of all the provisions contemplated for the bill. The chairman expressed reservations about the effectiveness of a mandatory reporting provisions, noting that it would be difficult, if not impossible, to enforce. A penalty clause in the proposed amendments was criticized by a number of speakers as burdensome and unenforceable (the committee members later agreed to delete it). Nevertheless, the chairman and Senator Russo approved the mandatory reporting language after some discussion, commenting that if, as all agreed, there was at least the possibility that it would deter abuse and exploitation, it should be included.

The members then spent some time discussing whether the bill would need an appropriation. The chairman asked Mr. Reilly to justify the need for one. Mr. Reilly commented that the responsibilities given by the bill to county welfare agencies could be handled under existing resources (\$400,000 in Title XX funds has already been channeled to them for these purposes), but if costs mounted he might need to come before the Legislature with a request for additional money in the future. Mr. Reilly noted that an appropriation for the Department of Community Affairs was essential since it would undertake major new responsibilities under the bill. Given the bill's requirement of annual inspections and a range of \$75-\$150 for fees, the department would need \$415,000 annually. The fees would generate a revenue of \$165,000 for the Treasury to offset this amount, but the full amount would need to be appropriated, since revenue from fees always reverts to the General Treasury. The Department of Health would need \$92,000 to implement its responsibilities, according to Mr. Reilly, for a total of \$507,000, or \$342,000 net annual cost. The chairman noted that if S-3111 is signed soon, only a half-year's costs would need to be met since the bill takes effect 180 days after enactment. He thanked Mr. Reilly for his department's efforts to absorb anticipated costs within its existing budget.

Since there was no quorum (Senators Hamilton, Hagedorn and Vreeland were unable to come due to other legislative responsibilities), the chairman announced that he would later seek the approval of the other committee members to the language now agreed upon by himself and Senator Russo. At its next scheduled meeting on Monday, April 23, the committee would take official action to release S-3111 to the floor, and also to approve a statement to the bill.

The senators heard a proposal for additional legislation from Arthur Rittmaster, director of the Association for the Advancement of the Mentally Handicapped. Mr. Rittmaster submitted a draft proposal for a two-year project in community support for residents of boarding facilities. The chairman promised to give the proposal his attention and to discuss it with staff.

2. A-514 and A-1033

The chairman expressed agreement with the view of Mr. Reilly and others that the provisions of these bills are subsumed under S-3111, and asked that the sponsors be notified that their legislation will therefore be tabled by the committee.

The session adjourned at 4:00 P.M.

(Since January, 1979 the chairman has received written requests for consideration of the following bills:

S-220, 692, 700, 703, 708, 710, 778, 990, 1199, 1336, 1386, 1419, 1451, 1511, 3007, 3035, 3043 and 3152; and A-204, 514, 1033, 1139, 1265, 1634 and 1674.)