

30:13-3

LEGISLATIVE HISTORY CHECKLIST

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(Nursing homes--contracts)

NJSA: 30:13-3

LAWS OF: 1997 CHAPTER: 241

BILL NO: S202

SPONSOR(S): Weinberg

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Health

SENATE: Senior Citizens

AMENDED DURING PASSAGE: Yes Assembly Committee Substitute
(1R) enacted

DATE OF PASSAGE: ASSEMBLY: December 12, 1996

SENATE: June 26, 1997

DATE OF APPROVAL: September 5, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement
with floor amendments,
adpoted 5-6-96

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

§§3,4
C. 30:13-3.1 &
30:13-3.2
§5
C. 30:13-10.1

P.L. 1997, CHAPTER 241, *approved September 5, 1997*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 202

1 AN ACT concerning nursing homes and amending and supplementing
2 P.L.1976, c.120.

3

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

6

7 1. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read
8 as follows:

9 3. Every nursing home shall have the responsibility for:

10 a. Maintaining a complete record of all funds, personal property
11 and possessions of a nursing home resident from any source
12 whatsoever, which have been deposited for safekeeping with the
13 nursing home for use by the resident. This record shall contain a
14 listing of all deposits and withdrawals transacted, and these shall be
15 substantiated by receipts given to the resident or his guardian. A
16 nursing home shall provide to each resident or his guardian a quarterly
17 statement which shall account for all of such resident's property on
18 deposit at the beginning of the accounting period, all deposits and
19 withdrawals transacted during the period, and the property on deposit
20 at the end of the period. The resident or his guardian shall be allowed
21 daily access to his property on deposit during specific periods
22 established by the nursing home for such transactions at a reasonable
23 hour. A nursing home may, at its own discretion, place a limitation as
24 to dollar value and size of any personal property accepted for
25 safekeeping.

26 b. Providing for the spiritual needs and wants of residents by

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted December 12, 1996.

1 notifying, at a resident's request, a clergyman of the resident's choice
2 and allowing unlimited visits by such clergyman. Arrangements shall
3 be made, at the resident's expense, for attendance at religious services
4 of his choice when requested. No religious beliefs or practices, or any
5 attendance at religious services, shall be imposed upon any resident.

6 c. Admitting only that number of residents for which it reasonably
7 believes it can safely and adequately provide nursing care. Any
8 applicant for admission to a nursing home who is denied such
9 admission shall be given the reason for such denial in writing.

10 d. Ensuring that an applicant for admission or a resident is treated
11 without discrimination **[based upon]** as to age, race, religion, sex **[or**
12 **nationality with respect to participation in recreational activities, meals**
13 **or other social functions is prohibited]** or national origin. However,
14 the participation of a resident in recreational activities, meals or other
15 social functions may be restricted or prohibited if recommended by a
16 resident's attending physician in writing and consented to by the
17 resident.

18 e. Ensuring that no resident shall be subjected to physical
19 restraints except upon written orders of an attending physician for a
20 specific period of time when necessary to protect such resident from
21 injury to himself or others. Restraints shall not be employed for
22 purposes of punishment or the convenience of any nursing home staff
23 personnel. The confinement of a resident in a locked room shall be
24 prohibited.

25 f. Ensuring that drugs and other medications shall not be employed
26 for purposes of punishment, for convenience of any nursing home staff
27 personnel or in such quantities so as to interfere with a resident's
28 rehabilitation or his normal living activities.

29 g. Permitting citizens, with the consent of the resident being
30 visited, legal services programs, employees of the Office of the Public
31 Defender, employees of the private entity designated by the Governor
32 as the State's mental health protection and advocacy agency pursuant
33 to section 22 of P.L.1994, c.58 (C.52:27E-68), and employees and
34 volunteers of the Office of the Nursing Home Ombudsman Program in
35 the Department of Community Affairs, whose purposes include
36 rendering assistance without charge to nursing home residents, full and
37 free access to the nursing home in order to visit with and make
38 personal, social and legal services available to all residents and to
39 assist and advise residents in the assertion of their rights with respect
40 to the nursing home, involved governmental agencies and the judicial
41 system.

42 (1) Such access shall be permitted by the nursing home at a
43 reasonable hour.

44 (2) Such access shall not substantially disrupt the provision of
45 nursing and other care to residents in the nursing home.

46 (3) All persons entering a nursing home pursuant to this section

1 shall promptly notify the person in charge of their presence. They
2 shall, upon request, produce identification to substantiate their
3 identity. No such person shall enter the immediate living area of any
4 resident without first identifying himself and then receiving permission
5 from the resident to enter. The rights of other residents present in the
6 room shall be respected. A resident shall have the right to terminate
7 a visit by a person having access to his living area pursuant to this
8 section at any time. Any communication whatsoever between a
9 resident and such person shall be confidential in nature, unless the
10 resident authorizes the release of such communication in writing.

11 h. Ensuring compliance with all applicable State and Federal
12 statutes and rules and regulations.

13 i. Ensuring that every resident, prior to or at the time of admission
14 and during his stay, shall receive a written statement of the services
15 provided by the nursing home, including those required to be offered
16 by the nursing home on an as-needed basis, and of related charges,
17 including any charges for services not covered under Title XVIII and
18 Title XIX of the Social Security Act, as amended, or not covered by
19 the nursing home's basic per diem rate. This statement shall further
20 include the payment, fee, deposit and refund policy of the nursing
21 home.

22 j. Ensuring that a prospective resident or the resident's family or
23 guardian receives a copy of the contract or agreement between the
24 nursing home and the resident prior to or upon the resident's
25 admission.

26 (cf: P.L.1994, c.58, s.50)

27

28 2. Section 8 of P.L.1976, c.120 (C.30:13-8) is amended to read
29 as follows:

30 8. a. Any person or resident whose rights as defined herein are
31 violated shall have a cause of action against any person committing
32 such violation. The Department of Health may maintain an action in
33 the name of the State to enforce the provisions of this act and any
34 rules or regulations promulgated pursuant to this act. The action may
35 be brought in any court of competent jurisdiction to enforce such
36 rights and to recover actual and punitive damages for their violation.
37 Any plaintiff who prevails in any such action shall be entitled to
38 recover reasonable attorney's fees and costs of the action.

39 b. In addition to the provisions of subsection a. of this section,
40 treble damages may be awarded to a resident or alleged third party
41 guarantor of payment who prevails in any action to enforce the
42 provisions of section 3 of P.L. , c. (C.)(pending before the
43 Legislature as this bill).

44 (cf: P.L.1976, c.120, s.8)

1 3. (New section) a. A nursing home shall not, with respect to an
2 applicant for admission or a resident of the facility:

3 (1) require that the applicant or resident waive any rights to
4 benefits to which he may be entitled under the Medicare program
5 established pursuant to Title XVIII of the federal Social Security Act,
6 Pub.L.89-97 (42 U.S.C. §1395 et seq.) or the Medicaid program
7 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.); or

8 (2) require a third party guarantee of payment to the facility as a
9 condition of admission or expedited admission to, or continued
10 residence in, that facility; except that when an individual has legal
11 access to a resident's income or resources available to pay for facility
12 care pursuant to a durable power of attorney, order of guardianship or
13 other valid document, the facility may require the individual to sign a
14 contract to provide payment to the facility from the resident's income
15 or resources without incurring personal financial liability.

16 b. A nursing home shall prominently display in that facility, and
17 provide to an applicant for admission or a resident of the facility,
18 written information about how to apply for benefits under the
19 Medicare or Medicaid program, and how to receive a refund of
20 previous payments to the facility which may be covered by those
21 benefits.

22 c. The provisions of subsections a. and b. of this section shall
23 ¹[not apply to a nursing home which does not] only apply to those
24 distinct parts of a nursing home certified to¹ participate in the
25 Medicare or Medicaid program.

26
27 4. (New section) Except as otherwise provided in this act, the
28 provisions of P.L.1976, c.120 (C.30:13-1 et seq.) and section 3 of
29 P.L. , c. (C.)(pending before the Legislature as this bill)
30 shall apply to any applicant for admission to a nursing home or any
31 resident of the facility, whether the applicant or resident is eligible for
32 benefits under the Medicare or Medicaid program or is a private pay
33 patient, or may in the future convert from a private pay patient to a
34 Medicare or Medicaid patient.

35
36 5. (New section) The Department of Health and Senior Services
37 shall provide a written explanation of the provisions of section 3 of
38 P.L. , c. (C.)(pending before the Legislature as this bill) to
39 each nursing home which participates in the Medicare or Medicaid
40 program, and the nursing home shall include the written explanation
41 in the contract or agreement which it furnishes to a prospective
42 resident or the resident's family or guardian prior to or upon
43 admission.

44
45 6. This act shall take effect immediately.

1

2

3 Requires nursing homes to provide copy of contract to resident upon
4 admission.

ASSEMBLY, No. 202

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman WEINBERG and Assemblyman ZISA

1 AN ACT concerning nursing homes and amending and supplementing
2 P.L.1976, c.120.

3

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

6

7 1. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read as
8 follows:

9 3. Every nursing home shall have the responsibility for:

10 a. Maintaining a complete record of all funds, personal property
11 and possessions of a nursing home resident from any source
12 whatsoever, which have been deposited for safekeeping with the
13 nursing home for use by the resident. This record shall contain a
14 listing of all deposits and withdrawals transacted, and these shall be
15 substantiated by receipts given to the resident or his guardian. A
16 nursing home shall provide to each resident or his guardian a quarterly
17 statement which shall account for all of such resident's property on
18 deposit at the beginning of the accounting period, all deposits and
19 withdrawals transacted during the period, and the property on deposit
20 at the end of the period. The resident or his guardian shall be allowed
21 daily access to his property on deposit during specific periods
22 established by the nursing home for such transactions at a reasonable
23 hour. A nursing home may, at its own discretion, place a limitation as
24 to dollar value and size of any personal property accepted for
25 safekeeping.

26 b. Providing for the spiritual needs and wants of residents by
27 notifying, at a resident's request, a clergyman of the resident's choice
28 and allowing unlimited visits by such clergyman. Arrangements shall
29 be made, at the resident's expense, for attendance at religious services
30 of his choice when requested. No religious beliefs or practices, or any
31 attendance at religious services, shall be imposed upon any resident.

32 c. Admitting only that number of residents for which it reasonably

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

Matter underlined thus is new matter.

1 believes it can safely and adequately provide nursing care. Any
2 applicant for admission to a nursing home who is denied such
3 admission shall be given the reason for such denial in writing.

4 d. Ensuring that discrimination based upon age, race, religion, sex
5 or nationality with respect to participation in recreational activities,
6 meals or other social functions is prohibited. However, the
7 participation of a resident in recreational activities, meals or other
8 social functions may be restricted or prohibited if recommended by a
9 resident's attending physician in writing and consented to by the
10 resident.

11 e. Ensuring that no resident shall be subjected to physical restraints
12 except upon written orders of an attending physician for a specific
13 period of time when necessary to protect such resident from injury to
14 himself or others. Restraints shall not be employed for purposes of
15 punishment or the convenience of any nursing home staff personnel.
16 The confinement of a resident in a locked room shall be prohibited.

17 f. Ensuring that drugs and other medications shall not be employed
18 for purposes of punishment, for convenience of any nursing home staff
19 personnel or in such quantities so as to interfere with a resident's
20 rehabilitation or his normal living activities.

21 g. Permitting citizens, with the consent of the resident being
22 visited, legal services programs, employees of the Department of
23 Public Advocate, and employees and volunteers of the Office of the
24 Nursing Home Ombudsman Program in the Department of Community
25 Affairs, whose purposes include rendering assistance without charge
26 to nursing home residents, full and free access to the nursing home in
27 order to visit with and make personal, social and legal services
28 available to all residents and to assist and advise residents in the
29 assertion of their rights with respect to the nursing home, involved
30 governmental agencies and the judicial system.

31 (1) Such access shall be permitted by the nursing home at a
32 reasonable hour.

33 (2) Such access shall not substantially disrupt the provision of
34 nursing and other care to residents in the nursing home.

35 (3) All persons entering a nursing home pursuant to this section
36 shall promptly notify the person in charge of their presence. They
37 shall, upon request, produce identification to substantiate their
38 identity. No such person shall enter the immediate living area of any
39 resident without first identifying himself and then receiving permission
40 from the resident to enter. The rights of other residents present in the
41 room shall be respected. A resident shall have the right to terminate
42 a visit by a person having access to his living area pursuant to this
43 section at any time. Any communication whatsoever between a
44 resident and such person shall be confidential in nature, unless the
45 resident authorizes the release of such communication in writing.

46 h. Ensuring compliance with all applicable State and Federal

1 statutes and rules and regulations.

2 i. Ensuring that every resident, prior to or at the time of admission
3 and during his stay, shall receive a written statement of the services
4 provided by the nursing home, including those required to be offered
5 by the nursing home on an as-needed basis, and of related charges,
6 including any charges for services not covered under Title XVIII and
7 Title XIX of the Social Security Act, as amended, or not covered by
8 the nursing home's basic per diem rate. This statement shall further
9 include the payment, fee, deposit and refund policy of the nursing
10 home.

11 j. Ensuring that a prospective resident or the resident's family or
12 guardian receives a copy of the contract or agreement between the
13 nursing home and the resident prior to or upon admission, pursuant to
14 P.L. c. (C.)(pending before the Legislature as this
15 bill).

16 (cf: P.L.1976, c.120, s.3)

17

18 2. (New section) a. The contract or agreement furnished by a
19 nursing home to a prospective resident prior to or upon admission
20 shall include the following statement prominently displayed at the top
21 thereof:

22 "This is a legally binding contract that will become final three
23 business days after the date of your receipt of this contract, unless you
24 notify us in writing that you wish to cancel this contract during this
25 period. You may consult an attorney who may review or cancel this
26 contract on your behalf, as described below. Pursuant to federal law,
27 a nursing home may not require a third party payment or guarantee of
28 payment as a condition of admission or expedited admission to, or
29 continuing residence in, the nursing home. This document is being
30 furnished to you as required by State law."

31 b. The prospective resident or that person's family or guardian may
32 have an attorney of their choosing review the contract or agreement
33 between the nursing home and the patient during a period of three
34 business days after the date of receipt of a copy of the document by
35 the resident or that person's family member or guardian.

36 c. The contract or agreement shall become legally binding upon the
37 nursing home and the resident after a period of three business days has
38 elapsed from the date of receipt of a copy of the document by the
39 prospective resident or that person's family member or guardian,
40 unless the resident or that person's family member or guardian, or the
41 resident's attorney, notifies the nursing home of their decision to
42 cancel the contract, subject to the requirements of subsection d. of this
43 section.

44 d. The prospective resident or the resident's family or guardian, or
45 an attorney chosen by the resident or the resident's family or guardian,
46 shall notify the nursing home in writing of a decision to cancel the

1 contract or agreement. Notification may be provided by certified mail
2 or telegram, which shall be considered effective upon sending, or by
3 personal delivery of the notice of cancellation, which shall be
4 considered effective upon delivery to the nursing home admissions
5 office.

6 e. The prospective resident or the resident's family or guardian, or
7 an attorney chosen by the resident or the resident's family or guardian,
8 may, during the three business-day period after receipt of the contract
9 or agreement, notify the nursing home in writing of any suggested
10 revisions to the contract or agreement that would be satisfactory to the
11 resident or the resident's family or guardian, or their attorney.

12 f. Notwithstanding the provisions of this section to the contrary,
13 the three-business day period between the date of receipt of a copy of
14 the contract or agreement by the prospective resident or the resident's
15 family or guardian and the date that it becomes legally binding may be
16 extended by mutual written agreement of the nursing home and the
17 prospective resident or the resident's family or guardian, or their
18 attorney.

19 g. An explanation of the provisions of this section shall be included
20 in the contract or agreement furnished by a nursing home to a
21 prospective resident or the resident's family or guardian prior to or
22 upon admission.

23

24 3. This act shall take effect immediately.

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STATEMENT

28

29 This bill requires that a nursing home furnish a prospective resident
30 or the resident's family or guardian with a copy of the contract or
31 agreement between the nursing home and the resident prior to or upon
32 admission. The contract or agreement shall include the following
33 statement prominently displayed at the top thereof:

34 "This is a legally binding contract that will become final three
35 business days after the date of your receipt of this contract, unless you
36 notify us in writing that you wish to cancel this contract during this
37 period. You may consult an attorney who may review or cancel this
38 contract on your behalf, as described below. Pursuant to federal law,
39 a nursing home may not require a third party payment or guarantee of
40 payment as a condition of admission or expedited admission to, or
41 continuing residence in, the nursing home. This document is being
42 furnished to you as required by State law."

43 The bill stipulates that the contract or agreement shall become
44 legally binding upon the nursing home and the resident after a period
45 of three business days has elapsed from the date of receipt of a copy
46 of the document by the prospective resident or that person's family

1 member or guardian, unless the resident or that person's family
2 member or guardian, or the resident's attorney, notifies the nursing
3 home of their decision to cancel the contract. The three business-day
4 period may be extended by mutual written agreement of the nursing
5 home and the prospective resident or the resident's family or guardian,
6 or their attorney.

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11 Requires nursing home to permit attorney review of contract with
12 prospective resident prior to or at time of admission.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 202

STATE OF NEW JERSEY

DATED: NOVEMBER 7, 1996

The Assembly Health Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 202.

This committee substitute requires that a nursing home furnish a prospective resident or the resident's family or guardian with a copy of the contract or agreement between the nursing home and the resident prior to or upon admission.

The substitute further provides that a nursing home shall not, with respect to an applicant for admission or a resident of the facility:

(1) require that the applicant or resident waive any rights to benefits to which he may be entitled under the Medicare or Medicaid program; or

(2) require a third party guarantee of payment to the facility as a condition of admission or expedited admission to, or continued residence in, that facility; except that when an individual has legal access to a resident's income or resources available to pay for facility care pursuant to a durable power of attorney, order of guardianship or other valid document, the facility may require the individual to sign a contract to provide payment to the facility from the resident's income or resources without incurring personal financial liability.

In addition, the substitute requires a nursing home to prominently display in that facility, and provide to an applicant for admission or a resident of the facility, written information about how to apply for benefits under the Medicare or Medicaid program, and how to receive a refund of previous payments to the facility which may be covered by those benefits.

The provisions of the substitute which reference an applicant's or resident's right to Medicare or Medicaid benefits and any third party guarantor of payment shall not apply to a nursing home which does not participate in the Medicare or Medicaid program.

The provisions of this substitute, except as otherwise indicated, shall apply to any applicant for admission to a nursing home or any resident of the facility, whether the applicant or resident is eligible for benefits under the Medicare or Medicaid program or is a private pay patient, or may in the future convert from a private pay patient to a Medicare or Medicaid patient.

Finally, the substitute requires the Department of Health and Senior Services to provide a written explanation of these provisions to each nursing home which participates in the Medicare or Medicaid program, which the nursing home shall include in the contract or agreement which it furnishes to a prospective resident or the resident's family or guardian prior to or upon admission.

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 202

with Assembly Floor Amendments
(Proposed By Assemblywoman WEINBERG)

ADOPTED: DECEMBER 12, 1996

The purpose of this amendment is to ensure that the language of this committee substitute is consistent with federal law by clarifying that the provisions of section 3 shall only apply to those distinct parts of a nursing home certified to participate in the Medicare or Medicaid program.

The provisions of this substitute, except as otherwise indicated, shall apply to any applicant for admission to a nursing home or any resident of the facility, whether the applicant or resident is eligible for benefits under the Medicare or Medicaid program or is a private pay patient, or may in the future convert from a private pay patient to a Medicare or Medicaid patient.

Finally, the substitute requires the Department of Health and Senior Services to provide a written explanation of these provisions to each nursing home which participates in the Medicare or Medicaid program, which the nursing home shall include in the contract or agreement which it furnishes to a prospective resident or the resident's family or guardian prior to or upon admission.

SENATE SENIOR CITIZENS, VETERANS' AFFAIRS AND
HUMAN SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 202

STATE OF NEW JERSEY

DATED: JUNE 23, 1997

The Senate Senior Citizens, Veterans' Affairs and Human Services Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 202 (1R).

This committee substitute requires that a nursing home furnish a prospective resident or the resident's family or guardian with a copy of the contract or agreement between the nursing home and the resident prior to or upon admission.

The substitute further provides that a nursing home shall not, with respect to an applicant for admission or a resident of the facility:

(1) require that the applicant or resident waive any rights to benefits to which he may be entitled under the Medicare or Medicaid program; or

(2) require a third party guarantee of payment to the facility as a condition of admission or expedited admission to, or continued residence in, that facility; except that when an individual has legal access to a resident's income or resources available to pay for facility care pursuant to a durable power of attorney, order of guardianship or other valid document, the facility may require the individual to sign a contract to provide payment to the facility from the resident's income or resources without incurring personal financial liability.

In addition, the substitute requires a nursing home to prominently display in that facility, and provide to an applicant for admission or a resident of the facility, written information about how to apply for benefits under the Medicare or Medicaid program, and how to receive a refund of previous payments to the facility which may be covered by those benefits.

The provisions of the substitute which reference an applicant's or resident's right to Medicare or Medicaid benefits and any third party guarantor of payment shall only apply to those distinct parts of a nursing home certified to participate in the Medicare or Medicaid program.