

26:2H-7.4 to 26:2H-7.8

LEGISLATIVE HISTORY CHECKLIST
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(Hospitals--permit establishment of sub-acute care units without certificate of need)

NJSA: 26:2H-7.4 to 26:2H-7.8

LAWS OF: 1996 **CHAPTER:** 102

BILL NO: S368

SPONSOR(S): Matheussen

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Health
SENATE: Health

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 17, 1996
SENATE: February 5, 1996

DATE OF APPROVAL: August 19, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

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

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

P.L. 1996, CHAPTER 102, *approved August 19, 1996*
Senate, No. 368 (*Second Reprint*)

1 AN ACT concerning subacute care units in ²[health care
2 facilities]hospitals² and supplementing Title 26 of the Revised
3 Statutes.

4

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

7

8 1. The Legislature finds and declares that it is in the public interest
9 for the State to facilitate the development of an effective and efficient
10 spectrum of quality health care services; and that the conversion of
11 existing hospital bed capacity to a less intensive and more appropriate
12 level of care for post-acute care patients in order to create subacute
13 care units will ensure an optimal quality of care, promote continuity of
14 care and avoid the duplication of existing health care facility bed
15 capacity through costly new construction.

16

17 2. As used in this act:

18 "Commissioner" means the Commissioner of Health.

19 ²["Health care facility" means a hospital or a skilled nursing home
20 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).]²

21 "Hospital" means an acute care general hospital ²[or a
22 comprehensive rehabilitation hospital]² licensed pursuant to P.L.1971,
23 c.136 (C.26:2H-1 et seq.).

24 "Subacute care" means a comprehensive in-patient program for
25 patients who have had an acute illness, injury or exacerbation of a
26 disease process, have a determined course of treatment prescribed, and
27 do not require intensive diagnostic or intensive invasive procedures,
28 but the patient's condition requires physician direction, intensive
29 nursing care, frequent recurrent patient assessment and review of the
30 clinical course and treatment plan for a period of time, significant use
31 of ancillary medical services and an interdisciplinary approach using

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 22, 1996.

² Assembly AHL committee amendments adopted June 10, 1996 .

1 professional teams of physicians, nurses and other relevant
2 professional disciplines to deliver complex clinical interventions.

3 "Subacute care unit" means a unit located within a ²[health care
4 facility]hospital² which ²[provides]utilizes licensed long-term care
5 beds to provide² subacute care for patients.

6
7 3. a. ²[Notwithstanding the provisions of section 7 of P.L.1971,
8 c.136 (C.26:2H-7) to the contrary, a]Δ² hospital which proposes to
9 utilize a portion of its licensed bed capacity for the purpose of
10 establishing a subacute care unit ²[is exempted from the requirement
11 of obtaining a certificate of need, subject to the following
12 requirements:]shall apply to the Department of Health for a certificate
13 of need to establish a subacute care unit pursuant to section 7 of
14 P.L.1971, c.136 (C.26:2H-7). The application shall qualify for an
15 expedited review as provided by regulation of the department and shall
16 be processed within 90 days. In addition, the hospital shall be subject
17 to the following requirements:²

18 (1) the ²[unit shall comply with all State regulations governing its
19 operations, and shall be subject to]subacute care unit's beds shall be
20 licensed by the Department of Health as long-term care beds and shall
21 meet all applicable State licensing and federal certification
22 requirements, including² the physical requirements for skilled nursing
23 beds under the federal Medicare program established pursuant to
24 Pub.L.89-97 (42 U.S.C. §1395 et seq.), with reasonable waiver
25 provisions as determined by the commissioner or the federal Health
26 Care Financing Administration, as appropriate;

27 (2) the ²[average]maximum² length of stay in the unit shall not
28 exceed ²[20]eight² days;

29 (3) the unit shall be certified to participate in the Medicare
30 program as a skilled nursing facility;

31 (4) the unit shall be comprised of not more than ²[15%]7%² of the
32 hospital's licensed ²medical-surgical² bed capacity or ²[24]12² beds,
33 whichever is greater; ²[and]²

34 (5) the hospital's licensed ²[acute care] medical-surgical² bed
35 capacity shall be reduced, by the commissioner, by the number of beds
36 used to establish a subacute care unit under the provisions of this
37 section. ²Long-term care beds in a hospital's subacute care unit shall
38 not be transferred to, or combined with, a subacute care unit in
39 another hospital. Bed limitations for a hospital shall include both
40 conversions of existing acute care beds and any purchases or other
41 acquisitions or rentals of beds to be used by a hospital for the
42 provision of subacute care under this act;

43 (6) notwithstanding the provisions of section 10 of P.L.1971, c.136
44 (C.26:2H-10) to the contrary, the hospital shall be required to pay an
45 application fee of \$5,000 for a certificate of need to establish a
46 subacute care unit; and

1 (7) the hospital shall be subject to the fee for the filing of an
2 application for a license for long-term care beds and any renewal
3 thereof as established by the Department of Health pursuant to section
4 12 of P.L.1971, c.136 (C.26:2H-12)².

5 b. ¹[Long-term care beds in a subacute care unit shall be subject to
6 Medicaid occupancy level requirements established pursuant to section
7 2 of P.L.1985, c.303 (C.10:5-12.2), but, notwithstanding the
8 provisions of section 2 of P.L.1985, c.303 (C.10:5-12.2) to the
9 contrary, a hospital shall be required to maintain a Medicaid
10 occupancy level in a subacute care unit equal to the monthly average
11 Medicaid occupany level of the hospital's medical/surgical beds.] ²[A
12 subacute care unit shall not discriminate against a patient on the basis
13 of a patient's ability to pay or source of payment for the care provided
14 in the unit.¹]Subacute care shall not be covered by the Medicaid
15 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.)².

16 The long-term care beds in a subacute care unit shall not be included
17 in long-term care bed inventories for certificate of need review
18 purposes.

19
20 4. a. The determination of whether a hospital subacute care unit
21 or a skilled nursing or comprehensive rehabilitation hospital or other
22 type of facility is the preferred non-acute care placement for a patient
23 shall be based on clinical considerations and the preference of the
24 patient and his family; except that, as a condition of licensure of a
25 hospital subacute care unit, clinically stable patients who are being
26 treated in the diagnostic categories listed in paragraph (1) of this
27 subsection and who meet the criteria for inpatient rehabilitation
28 hospital care listed in paragraph (2) of this subsection, except as may
29 be recommended by the comprehensive rehabilitation hospital or acute
30 care hospital that has licensed comprehensive rehabilitation beds
31 pursuant to subsection b. of this section, shall not be placed in a
32 hospital subacute care unit.

33 (1) Diagnostic categories include patients with: strokes, congenital
34 anomalies, major multiple trauma, polyarthritis including rheumatoid
35 arthritis, neurological disorders including multiple sclerosis, motor
36 neuron diseases, polyneuropathy, muscular dystrophy and Parkinson's
37 disease, brain injury including traumatic or non-traumatic, spinal cord
38 injury, amputations, joint replacements, fracture of the femur including
39 hip fracture and burns.

40 (2) Criteria for inpatient rehabilitation hospital care include
41 patients who meet or require all of the following:

42 (a) close medical supervision by a physician with specialized
43 training or experience in rehabilitation;

44 (b) 24-hour rehabilitation nursing;

45 (c) a relatively intense level of rehabilitation services;

46 (d) a multi-disciplinary team approach to the delivery of the

1 program;

2 (e) a coordinated program of care;

3 (f) significant practical improvement is expected in a reasonable
4 period of time; and

5 (g) realistic goals of self-care or independence in activities of daily
6 living.

7 b. An acute care hospital shall forward information on clinically
8 stable patients to a licensed comprehensive rehabilitation hospital or
9 an acute care hospital that has licensed comprehensive rehabilitation
10 beds. The licensed comprehensive rehabilitation hospital or the acute
11 care hospital that has licensed comprehensive rehabilitation beds shall
12 then make a recommendation, signed by a physician with specialized
13 training or experience in rehabilitation, regarding placement within
14 24-hours of receipt of the information from the acute care hospital and
15 which, together with the concurring or alternate
16 ²~~recommedation~~recommendation² from a case manager at the acute
17 care hospital, shall be forwarded to the patient's attending physician.

18 c. A patient in a skilled nursing home who is admitted to ¹and
19 ~~discharged from~~¹ an acute care hospital shall not be ~~discharged~~
20 ~~admitted~~¹ to the hospital's subacute care unit unless the skilled nursing
21 home is unable to readmit the patient within 24 hours after notification
22 by the acute care hospital that the patient is ready for readmission to
23 the skilled nursing home. If a patient is admitted to the hospital's
24 subacute care unit because that patient could not be readmitted to the
25 skilled nursing home, the patient shall be discharged to the skilled
26 nursing facility of origin as soon as the home agrees to accept the
27 patient.

28 d. In addition to the reports required in section 5 of P.L. ..., c. ...
29 (C.)(now pending before the Legislature as this bill), an acute
30 care hospital with a subacute care unit shall file an annual report with
31 the Department of Health demonstrating compliance with the
32 provisions of this section. The report shall include information on the
33 number of patients who were admitted to the hospital's subacute care
34 unit when the admission was contrary to the recommendation of a
35 physician with specialized training or experience in rehabilitation,
36 provided however, that the recommendation of the physician was for
37 immediate placement of the patient, that is, within 24-hours, in a
38 licensed comprehensive rehabilitation hospital or an acute care hospital
39 that has licensed comprehensive rehabilitation beds. The report also
40 shall include information on the number of patients admitted to the
41 hospital's subacute care unit pursuant to subsection c. of this section
42 because the patient could not be readmitted to a skilled nursing home.

43 e. The commissioner shall develop a procedure to assess an acute
44 care hospital with a hospital subacute care unit's compliance with the
45 provisions of this section ²and section 3 of this act².

46 f. Failure to comply with the provisions of this section ²~~shall~~ or

1 section 3 of this act may² result in the suspension or revocation of a
2 hospital subacute care license.

3 ¹g. If an acute care hospital which has a subacute care unit plans
4 to transfer a patient from the hospital to the subacute care unit, the
5 hospital shall discharge the patient from the hospital and admit the
6 patient to the subacute care unit.¹ ²Each admission to a subacute care
7 unit shall be subject to a \$35 health care quality fee to be paid to the
8 Department of Health, the revenues from which shall be deposited in
9 a dedicated fund to be established by the commissioner, and designated
10 as the "Health Care Quality Monitoring Fund."²

11
12 5. a. A subacute care unit shall be subject only to existing State
13 long-term care facility licensure requirements and federal regulations
14 governing Medicare participation.

15 b. A ²[health care facility]hospital² that has or converts beds for
16 subacute care shall file with the Department of Health quarterly
17 reports showing each patient admitted to the subacute care unit during
18 the quarter by diagnosis ²[and],² the patient's length of stay in the
19 unit², and any other information required by the department by
20 regulation².

21
22 6. This act shall take effect immediately, and shall apply to
23 subacute care units created after the effective date.

24
25
26
27
28 Permits establishment of subacute care units in acute care hospitals.

1 licensed comprehensive rehabilitation hospital or an acute care hospital
2 that has licensed comprehensive rehabilitation beds. The report also
3 shall include information on the number of patients admitted to the
4 hospital's subacute care unit pursuant to subsection c. of this section
5 because the patient could not be readmitted to a skilled nursing home.

6 e. The commissioner shall develop a procedure to assess an acute
7 care hospital with a hospital subacute care unit's compliance with the
8 provisions of this section.

9 f. Failure to comply with the provisions of this section shall result
10 in the suspension or revocation of a hospital subacute care license.

11

12 5. a. A subacute care unit shall be subject only to existing State
13 long-term care facility licensure requirements and federal regulations
14 governing Medicare participation.

15 b. A health care facility that has or converts beds for subacute care
16 shall file with the Department of Health quarterly reports showing
17 each patient admitted to the subacute care unit during the quarter by
18 diagnosis and the patient's length of stay in the unit.

19

20 6. This act shall take effect immediately, and shall apply to
21 subacute care units created after the effective date.

22

23

24

STATEMENT

25

26 This bill would permit health care facilities (acute care hospitals,
27 comprehensive rehabilitation hospitals and skilled nursing facilities) to
28 establish subacute care units. In addition, the bill permits acute care
29 hospitals and comprehensive rehabilitation hospitals to convert a
30 portion of existing bed capacity into a subacute care unit without
31 having to obtain a certificate of need from the Department of Health.

32 Subacute care is defined as a comprehensive in-patient program for
33 patients who have had an acute illness, injury or exacerbation of a
34 disease process for which they were hospitalized immediately prior to
35 entry into the program, have a determined course of treatment
36 prescribed, and do not require intensive diagnostic or invasive
37 procedures, but the patients' condition does require physician
38 direction, intensive nursing care, frequent recurrent patient assessment
39 and review of the clinical course and treatment plan for a period of
40 time, significant use of ancillary medical services and an
41 interdisciplinary approach using a professional team of physicians,
42 nurses and other relevant professional disciplines to deliver complex
43 clinical interventions.

44 As it applies to acute care hospitals and comprehensive
45 rehabilitation hospitals, the bill specifically provides that:

46 a hospital can convert 15% of its licensed bed capacity into a

1 subacute care unit, or 24 beds, whichever is greater;

2 the unit must comply with all State regulations governing its
3 operations, and is subject to the physical requirements for skilled
4 nursing beds under the federal Medicare program;

5 the average length of patients' stays in the unit cannot exceed 20
6 days;

7 the subacute care unit must be certified to participate in the
8 Medicare program as a skilled nursing facility; and

9 a hospital's licensed bed capacity will be reduced by the number of
10 beds converted to a subacute care unit.

11 Also, the bill specifies that long-term care beds in a subacute care
12 unit will be subject to Medicaid occupancy level requirements
13 established pursuant to section 2 of P.L.1985, c.303 (C.10:5-12.2) and
14 will not be included in long-term care bed inventories for certificate of
15 need review purposes.

16

17

18

19

20 Permits establishment of subacute care units in health care facilities;
21 exempts hospital-based units from certificate of need requirement
22 under certain circumstances.

[Second Reprint]
SENATE, No. 368

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators MATHEUSSEN and LYNCH

1 AN ACT concerning subacute care units in ²[health care
2 facilities]hospitals² and supplementing Title 26 of the Revised
3 Statutes.

4

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

7

8 1. The Legislature finds and declares that it is in the public interest
9 for the State to facilitate the development of an effective and efficient
10 spectrum of quality health care services; and that the conversion of
11 existing hospital bed capacity to a less intensive and more appropriate
12 level of care for post-acute care patients in order to create subacute
13 care units will ensure an optimal quality of care, promote continuity of
14 care and avoid the duplication of existing health care facility bed
15 capacity through costly new construction.

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17 2. As used in this act:

18 "Commissioner" means the Commissioner of Health.

19 ²["Health care facility" means a hospital or a skilled nursing home
20 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).]²

21 "Hospital" means an acute care general hospital ²[or a
22 comprehensive rehabilitation hospital]² licensed pursuant to P.L.1971,
23 c.136 (C.26:2H-1 et seq.).

24 "Subacute care" means a comprehensive in-patient program for
25 patients who have had an acute illness, injury or exacerbation of a
26 disease process, have a determined course of treatment prescribed, and
27 do not require intensive diagnostic or intensive invasive procedures,
28 but the patient's condition requires physician direction, intensive
29 nursing care, frequent recurrent patient assessment and review of the
30 clinical course and treatment plan for a period of time, significant use

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 22, 1996.

² Assembly AHL committee amendments adopted June 10, 1996 .

1 professional teams of physicians, nurses and other relevant
2 professional disciplines to deliver complex clinical interventions.

3 "Subacute care unit" means a unit located within a ²[health care
4 facility]~~hospital~~² which ²[provides]~~utilizes licensed long-term care~~
5 beds to provide² subacute care for patients.

6
7 3. a. ²[Notwithstanding the provisions of section 7 of P.L.1971,
8 c.136 (C.26:2H-7) to the contrary, a]~~A~~² hospital which proposes to
9 utilize a portion of its licensed bed capacity for the purpose of
10 establishing a subacute care unit ²[is exempted from the requirement
11 of obtaining a certificate of need, subject to the following
12 requirements:]shall apply to the Department of Health for a certificate
13 of need to establish a subacute care unit pursuant to section 7 of
14 P.L.1971, c.136 (C.26:2H-7). The application shall qualify for an
15 expedited review as provided by regulation of the department and shall
16 be processed within 90 days. In addition, the hospital shall be subject
17 to the following requirements:²

18 (1) the ²[unit shall comply with all State regulations governing its
19 operations, and shall be subject to]subacute care unit's beds shall be
20 licensed by the Department of Health as long-term care beds and shall
21 meet all applicable State licensing and federal certification
22 requirements, including² the physical requirements for skilled nursing
23 beds under the federal Medicare program established pursuant to
24 Pub.L.89-97 (42 U.S.C. §1395 et seq.), with reasonable waiver
25 provisions as determined by the commissioner or the federal Health
26 Care Financing Administration, as appropriate;

27 (2) the ²[average]~~maximum~~² length of stay in the unit shall not
28 exceed ²[20]~~eight~~² days;

29 (3) the unit shall be certified to participate in the Medicare
30 program as a skilled nursing facility;

31 (4) the unit shall be comprised of not more than ²[15%]~~7%~~² of the
32 hospital's licensed ²medical-surgical² bed capacity or ²[24]~~12~~² beds,
33 whichever is greater; ²[and]²

34 (5) the hospital's licensed ²[acute care] medical-surgical² bed
35 capacity shall be reduced, by the commissioner, by the number of beds
36 used to establish a subacute care unit under the provisions of this
37 section. ²Long-term care beds in a hospital's subacute care unit shall
38 not be transferred to, or combined with, a subacute care unit in
39 another hospital. Bed limitations for a hospital shall include both
40 conversions of existing acute care beds and any purchases or other
41 acquisitions or rentals of beds to be used by a hospital for the
42 provision of subacute care under this act;

43 (6) notwithstanding the provisions of section 10 of P.L.1971, c.136
44 (C.26:2H-10) to the contrary, the hospital shall be required to pay an
45 application fee of \$5,000 for a certificate of need to establish a
46 subacute care unit; and

1 (7) the hospital shall be subject to the fee for the filing of an
2 application for a license for long-term care beds and any renewal
3 thereof as established by the Department of Health pursuant to section
4 12 of P.L.1971, c.136 (C.26:2H-12)².

5 b. ¹[Long-term care beds in a subacute care unit shall be subject to
6 Medicaid occupancy level requirements established pursuant to section
7 2 of P.L.1985, c.303 (C.10:5-12.2), but, notwithstanding the
8 provisions of section 2 of P.L.1985, c.303 (C.10:5-12.2) to the
9 contrary, a hospital shall be required to maintain a Medicaid
10 occupancy level in a subacute care unit equal to the monthly average
11 Medicaid occupy level of the hospital's medical/surgical beds.] ²[A
12 subacute care unit shall not discriminate against a patient on the basis
13 of a patient's ability to pay or source of payment for the care provided
14 in the unit.] ¹ Subacute care shall not be covered by the Medicaid
15 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.)².

16 The long-term care beds in a subacute care unit shall not be included
17 in long-term care bed inventories for certificate of need review
18 purposes.

19
20 4. a. The determination of whether a hospital subacute care unit
21 or a skilled nursing or comprehensive rehabilitation hospital or other
22 type of facility is the preferred non-acute care placement for a patient
23 shall be based on clinical considerations and the preference of the
24 patient and his family; except that, as a condition of licensure of a
25 hospital subacute care unit, clinically stable patients who are being
26 treated in the diagnostic categories listed in paragraph (1) of this
27 subsection and who meet the criteria for inpatient rehabilitation
28 hospital care listed in paragraph (2) of this subsection, except as may
29 be recommended by the comprehensive rehabilitation hospital or acute
30 care hospital that has licensed comprehensive rehabilitation beds
31 pursuant to subsection b. of this section, shall not be placed in a
32 hospital subacute care unit.

33 (1) Diagnostic categories include patients with: strokes, congenital
34 anomalies, major multiple trauma, polyarthritis including rheumatoid
35 arthritis, neurological disorders including multiple sclerosis, motor
36 neuron diseases, polyneuropathy, muscular dystrophy and Parkinson's
37 disease, brain injury including traumatic or non-traumatic, spinal cord
38 injury, amputations, joint replacements, fracture of the femur including
39 hip fracture and burns.

40 (2) Criteria for inpatient rehabilitation hospital care include
41 patients who meet or require all of the following:

42 (a) close medical supervision by a physician with specialized
43 training or experience in rehabilitation;

44 (b) 24-hour rehabilitation nursing;

45 (c) a relatively intense level of rehabilitation services;

46 (d) a multi-disciplinary team approach to the delivery of the

1 program;

2 (e) a coordinated program of care;

3 (f) significant practical improvement is expected in a reasonable
4 period of time; and

5 (g) realistic goals of self-care or independence in activities of daily
6 living.

7 b. An acute care hospital shall forward information on clinically
8 stable patients to a licensed comprehensive rehabilitation hospital or
9 an acute care hospital that has licensed comprehensive rehabilitation
10 beds. The licensed comprehensive rehabilitation hospital or the acute
11 care hospital that has licensed comprehensive rehabilitation beds shall
12 then make a recommendation, signed by a physician with specialized
13 training or experience in rehabilitation, regarding placement within
14 24-hours of receipt of the information from the acute care hospital and
15 which, together with the concurring or alternate
16 ²[~~recommedation~~]recommendation² from a case manager at the acute
17 care hospital, shall be forwarded to the patient's attending physician.

18 c. A patient in a skilled nursing home who is admitted to ¹and
19 discharged from¹ an acute care hospital shall not be ¹[~~discharged~~]
20 admitted¹ to the hospital's subacute care unit unless the skilled nursing
21 home is unable to readmit the patient within 24 hours after notification
22 by the acute care hospital that the patient is ready for readmission to
23 the skilled nursing home. If a patient is admitted to the hospital's
24 subacute care unit because that patient could not be readmitted to the
25 skilled nursing home, the patient shall be discharged to the skilled
26 nursing facility of origin as soon as the home agrees to accept the
27 patient.

28 d. In addition to the reports required in section 5 of P.L. ..., c. ...
29 (C.)(now pending before the Legislature as this bill), an acute
30 care hospital with a subacute care unit shall file an annual report with
31 the Department of Health demonstrating compliance with the
32 provisions of this section. The report shall include information on the
33 number of patients who were admitted to the hospital's subacute care
34 unit when the admission was contrary to the recommendation of a
35 physician with specialized training or experience in rehabilitation,
36 provided however, that the recommendation of the physician was for
37 immediate placement of the patient, that is, within 24-hours, in a
38 licensed comprehensive rehabilitation hospital or an acute care hospital
39 that has licensed comprehensive rehabilitation beds. The report also
40 shall include information on the number of patients admitted to the
41 hospital's subacute care unit pursuant to subsection c. of this section
42 because the patient could not be readmitted to a skilled nursing home.

43 e. The commissioner shall develop a procedure to assess an acute
44 care hospital with a hospital subacute care unit's compliance with the
45 provisions of this section ²and section 3 of this act².

46 f. Failure to comply with the provisions of this section ²[~~shall~~] or

1 section 3 of this act may² result in the suspension or revocation of a
2 hospital subacute care license.

3 ¹g. If an acute care hospital which has a subacute care unit plans
4 to transfer a patient from the hospital to the subacute care unit, the
5 hospital shall discharge the patient from the hospital and admit the
6 patient to the subacute care unit.¹ ²Each admission to a subacute care
7 unit shall be subject to a \$35 health care quality fee to be paid to the
8 Department of Health, the revenues from which shall be deposited in
9 a dedicated fund to be established by the commissioner, and designated
10 as the "Health Care Quality Monitoring Fund."²

11

12 5. a. A subacute care unit shall be subject only to existing State
13 long-term care facility licensure requirements and federal regulations
14 governing Medicare participation.

15 b. A ²[health care facility]hospital² that has or converts beds for
16 subacute care shall file with the Department of Health quarterly
17 reports showing each patient admitted to the subacute care unit during
18 the quarter by diagnosis ²[and],² the patient's length of stay in the
19 unit², and any other information required by the department by
20 regulation².

21

22 6. This act shall take effect immediately, and shall apply to
23 subacute care units created after the effective date.

24

25

26

27

28 Permits establishment of subacute care units in acute care hospitals.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 368

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1996

The Assembly Health Committee reports favorably Senate Bill No. 368 (1R) with committee amendments.

As amended by the committee, this bill would permit acute care hospitals to establish subacute care units. In addition, the bill permits acute care hospitals to convert a portion of existing bed capacity into a subacute care unit by applying to the Department of Health for a certificate of need (CN) on an expedited review basis.

Subacute care is defined as a comprehensive in-patient program for patients who have had an acute illness, injury or exacerbation of a disease process for which they were hospitalized immediately prior to entry into the program, have a determined course of treatment prescribed, and do not require intensive diagnostic or invasive procedures, but the patient's condition does require physician direction, intensive nursing care, frequent recurrent patient assessment and review of the clinical course and treatment plan for a period of time, significant use of ancillary medical services and an interdisciplinary approach using a professional team of physicians, nurses and other relevant professional disciplines to deliver complex clinical interventions.

As it applies to acute care hospitals, the bill provides that:

- a hospital may convert 7% of its licensed medical-surgical bed capacity into a subacute care unit, or 12 beds, whichever is greater;
- the unit's long-term care beds are to be licensed by the Department of Health as long-term care beds and shall meet all applicable State licensing and federal certification requirements, including the physical requirements for skilled nursing beds under the federal Medicare program;
- the maximum length of a patient's stay in the unit cannot exceed eight days;
- the subacute care unit must be certified to participate in the Medicare program as a skilled nursing facility; and
- a hospital's licensed medical-surgical bed capacity will be reduced by the number of beds converted to a subacute care unit.

The bill also provides that the long-term care beds in the unit will not be included in long-term care bed inventories for certificate of need review purposes.

The bill sets forth diagnostic categories and criteria for clinically stable hospital patients who should be placed in a comprehensive rehabilitation hospital rather than a subacute care unit. The bill also requires hospitals that convert beds for subacute care to periodically report various activities to the Department of Health.

The committee amendments:

- restrict the provisions of the bill to subacute care units in acute care hospitals;

- delete the exemption from the CN requirement for hospitals proposing to establish a subacute care unit and, instead, provide for expedited review of the CN application required under these amendments, which is to be processed by the Department of Health within 90 days;

- provide that a subacute care unit's long-term care beds are to be licensed by the Department of Health as long-term care beds and shall meet all applicable State licensing and federal certification requirements;

- limit a patient's length of stay in a subacute care unit to a maximum of eight days;

- limit the size of a subacute care unit to 7% of the hospital's licensed medical-surgical bed capacity or 12 beds, whichever is greater;

- prohibit a hospital from transferring long-term care beds in its subacute care unit to another hospital's subacute care unit;

- stipulate that bed limitations for a hospital shall include both conversions of existing acute care beds and any purchases or other acquisitions or rentals of beds to be used by a hospital for the provision of subacute care;

- require a hospital to pay a CN application fee of \$5,000 to establish a subacute care unit;

- make a hospital which proposes to establish a subacute care unit subject to the fee for the filing of an application for a license for long-term care beds and any renewal thereof as established by the Department of Health;

- provide that subacute care shall not be a Medicaid-covered service; and

- make each admission to a subacute care unit subject to a \$35 health care quality fee to be paid to the Department of Health, the revenues from which shall be deposited in a dedicated fund to be established by the commissioner, and designated as the "Health Care Quality Monitoring Fund."

As reported by the committee, this bill is identical to Assembly Bill No. 510 (Roberts/Bagger) ACA, which the committee also reported on this date.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 368

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 22, 1996

The Senate Health Committee reports favorably Senate Bill No. 368 with committee amendments.

As amended by committee, this bill would permit acute care hospitals, comprehensive rehabilitation hospitals and skilled nursing facilities to establish subacute care units. In addition, the bill permits acute care hospitals and comprehensive rehabilitation hospitals to convert a portion of existing bed capacity into a subacute care unit without having to obtain a certificate of need from the Department of Health.

Subacute care is defined as a comprehensive in-patient program for patients who have had an acute illness, injury or exacerbation of a disease process for which they were hospitalized immediately prior to entry into the program, have a determined course of treatment prescribed, and do not require intensive diagnostic or invasive procedures, but the patient's condition does require physician direction, intensive nursing care, frequent recurrent patient assessment and review of the clinical course and treatment plan for a period of time, significant use of ancillary medical services and an interdisciplinary approach using a professional team of physicians, nurses and other relevant professional disciplines to deliver complex clinical interventions.

As it applies to acute care hospitals and comprehensive rehabilitation hospitals, the bill provides that:

- a hospital may convert 15% of its licensed bed capacity into a subacute care unit, or 24 beds, whichever is greater;
- the unit must comply with all State regulations governing its operations, and is subject to the physical requirements for skilled nursing beds under the federal Medicare program;
- the average length of patients' stays in the unit cannot exceed 20 days;
- the subacute care unit must be certified to participate in the Medicare program as a skilled nursing facility; and
- a hospital's licensed bed capacity will be reduced by the number of beds converted to a subacute care unit.

Also, the bill specifies that a subacute care unit shall not

discriminate against a patient on the basis of a patient's ability to pay or source of payment for the care provided in the subacute care unit. Also, the long-term care beds in the unit will not be included in long-term care bed inventories for certificate of need review purposes.

The bill sets forth diagnostic categories and criteria for clinically stable hospital patients who should be placed in a comprehensive rehabilitation hospital rather than a subacute care unit. The bill also requires hospitals and other health care facilities that convert beds for subacute care to periodically report various activities to the Department of Health.

The committee amended the bill to provide that a subacute care unit shall not discriminate against a patient on the basis of ability to pay or source of payment and deleted the provisions concerning Medicaid occupancy levels. The amendments also provide that an acute care hospital with a subacute care unit which plans to transfer a patient from the hospital to the subacute care unit, shall discharge the patient from the hospital and then admit the patient into the subacute care unit.

This bill was prefiled for introduction in the 1996-97 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-004

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RELEASE: Wed., Aug. 21, 1996

Gov. Christie Whitman has signed legislation which will permit the establishment of subacute care units in acute care hospitals and will expedite the processing of applications for certificates of need for the establishment of such units.

“This legislation will offer the citizens of New Jersey more options when they are looking to satisfy their medical needs,” said Gov. Whitman. “It will allow them to receive short term subacute medical care in the hospital following a serious injury or illness in an appropriate setting at an appropriate cost.”

The legislation permits acute care hospitals to establish a limited number of subacute care units which will accommodate patients who were hospitalized immediately prior for acute illness or injury. The bill specifies that the maximum length of stay for an individual in a subacute bed shall not exceed 8 days. In some instances, hospital patients require short-term subacute care following acute treatment. Previously, patients have remained in the hospital for such care, but in a more costly acute care setting.

The legislation also requires that hospitals that desire to establish a subacute unit apply to the Department of Health and Senior Services

for a certificate of need. The Department shall process each application in an expedited manner not to exceed 90 days per application.

S-368/A-510 was sponsored by Senator John Matheussen (R-Camden/Gloucester) and Senate Minority Leader John Lynch (D-Middlesex/Somerset/Union) and Assemblymen Joseph Roberts (D-Camden/Gloucester) and Rich Bagger (R-Middlesex/Morris/Somerset/Union).

Gov. Whitman also signed the following bills:

S-165/A-1853, sponsored by Senator Bernard Kenny (D-Hudson) and Assemblyman John Kelly (R-Bergen/Essex/Passaic), revises the retirement and survivorship benefits paid to retirants and beneficiaries in the Jersey City Employees Retirement System to more closely mirror the Public Employees Retirement System. This bill also increases the annual adjustments of retirement allowances and survivors' pensions from 50 percent to 60 percent of the increase in the cost of living, as measured by the U.S. Department of Labor.

A-1937/S-1168, sponsored by Assemblymen Alex DeCroce (R-Essex/Morris/Passaic) and Anthony Bucco (R-Morris) and Senator William Haines (R-Atlantic/Burlington/Camden), amends current law to allow New Jersey Transit to competitively negotiate for certain types of public transit rolling stock, including buses, rail cars, locomotives, signal systems and fare collection systems.

S-1031/A-1813, sponsored by Senators William Gormley (R-Atlantic) and Robert Martin (R-Essex/Morris/Passaic) and Assemblymen Francis Blee (R-Atlantic) and Kenneth LeFevre (R-Atlantic), permits school board representatives of sending districts to vote on school contracts used in providing services to students of sending districts. Additionally, it allows representatives to vote on the appointments, transfer, or removal of administrative staff, as well as other school employees that provide services to students of sending districts.

S-99/A-1701, sponsored by Senator William Haines (R-Atlantic/Burlington/Camden) and Assemblyman John Rocco (R-Camden), eliminates the annual physical exam requirement for all school board employees.