

26:2H-12.7 to 26:2H-12.11

LEGISLATIVE HISTORY CHECKLIST

NJSA: 26:2H-12.7 to 26:2H-12.11 (Patients Bill of Rights)

LAWS OF: 1989 **CHAPTER:** 170

Bill No: A1843

Sponsor(s): Hendrickson

Date Introduced: Pre-filed

Committee: Assembly: Health and Human Resources

Senate: Institutions, Health and Welfare

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: July 11, 1988

Senate: June 22, 1989

Date of Approval: August 14, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clippings--attached:

"Hospital patients get protection..." 8-17-89 Trentonian.

[SECOND REPRINT]
ASSEMBLY, No. 1843

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman HENDRICKSON

2 AN ACT concerning the rights of patients in general hospitals
and supplementing P.L. 1971, c. 136 (C. 26:2H-1 et seq.).

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

6 1. The Legislature finds and declares that a person admitted to
8 a general hospital often feels overwhelmed and uncertain as to
his condition and course of treatment, and that the declaration of
10 a bill of rights for hospital patients may lead to fuller
understanding and greater security on the part of patients as well
as greater sensitivity by the providers of medical care.

12 2. Every person admitted to a general hospital as licensed by
the State Department of health pursuant to P.L. 1971, c. 136
14 (C. 26:2H-1 et seq.) shall have the right:

16 a. To considerate and respectful care ¹consistent with sound
nursing and medical practices¹;

18 b. To be informed of the name of the physician responsible for
coordinating his care ¹[and the names of other health care
personnel who have direct contact with the patient]¹;

20 c. To obtain from the physician complete, current information
concerning his diagnosis, treatment, and prognosis in terms he
22 can reasonably be expected to understand. When it is not
medically advisable to give this information to the patient, it
24 shall be made available to another person ¹designated by the
patient¹ on his behalf;

26 d. To receive from the physician information necessary to give
informed consent prior to the start of any procedure or treatment
28 and which, except for those emergency situations not requiring an
informed consent, shall include as a minimum the specific
30 procedure or treatment, the medically significant risks involved,
and the possible duration of incapacitation, if any, as well as an

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 AHH committee amendments adopted April 18, 1988.

² Assembly floor amendments adopted June 13, 1988.

2 explanation of the significance of the patient's informed
3 consent. The patient shall be advised of any medically significant
4 alternatives for care or treatment, however, this does not include
5 experimental treatments that are not yet accepted by the
6 medical establishment. ¹[In those emergency situations not
7 requiring an informed consent, the patient shall receive the
8 specific procedure or treatment required without unnecessary
9 delay]¹;

10 e. To refuse treatment to the extent permitted by law and to
11 be informed of the medical consequences of this act;

12 f. To privacy to the extent consistent with providing adequate
13 medical care to the patient. This shall not preclude discussion of
14 a patient's case or examination of a patient by appropriate
15 health care personnel;

16 g. To privacy and confidentiality of all records pertaining to
17 his treatment, except as otherwise provided by law or third party
18 payment contract, and to access to those records, including
19 receipt of a copy thereof at reasonable cost, upon request, unless
20 his physician states in writing that access by the patient is not
21 medically advisable;

22 h. To expect that within its capacity, the hospital will make
23 reasonable response to his request for services, including the
24 services of ¹[a translator] an interpreter¹ in a language other
25 than English if 10% or more of the population in the hospital's
26 service area speaks that language;

27 i. To be informed by his physician of any continuing health
28 care requirements which may follow discharge and to receive
29 assistance from the physician and appropriate hospital staff in
30 arranging for required follow-up care after discharge;

31 j. To be informed by the hospital of the necessity of transfer
32 to another facility prior to the transfer and of any alternatives to
33 it which may exist, which transfer shall not be effected unless it
34 is determined by the physician to be medically necessary;

35 k. To be informed, upon request, of other health care and
36 educational institutions that the hospital has authorized to
37 participate in his treatment;

38 l. To be advised if the hospital proposes to engage in or
39 perform human research or experimentation and to refuse to
40 participate in these projects. For the purposes of this subsection

2 "human research" does not include the mere collecting of
statistical data;

4 m. To examine and receive an explanation of his bill,
regardless of source of payment, and to receive information or be
6 advised on the availability of sources of financial assistance to
help pay for the patient's care, as necessary;

8 n. To expect reasonable continuity of care;

o. To be advised of the hospital rules and regulations that
apply to his conduct as a patient; and,

10 p. To treatment without discrimination as to race, age,
religion, sex, national origin, or source of payment.

12 3. The administrator of a general hospital shall insure that a
written ¹[notice] summary¹ of the rights set forth in this act be
14 given to the patient or his guardian upon admittance to the
hospital and to each individual already in residence¹, and that a
16 written notice listing these rights is posted in a conspicuous place
in the patient's room¹. The administrator shall also post this
18 notice in a conspicuous public place in the hospital.

20 4. A patient ¹[whose rights as defined herein are violated shall
have a cause of action against the person committing the
violation. The Department of Health may initiate an action in
22 the name of the State to enforce the provisions of this act and
any rules and regulations promulgated pursuant to this act. The
24 action may be brought in any court of competent jurisdiction to
enforce these rights and to recover actual and punitive damages
26 for their violation. Any plaintiff who prevails in any action shall
be entitled to recover reasonable attorney's fees and costs of the
28 action] may file a written complaint against a hospital for a
failure to comply with the provisions of this act, or any rule or
30 regulation adopted pursuant to this act, either with the hospital
or the Department of Health. The hospital or the Department of
32 Health, as appropriate, shall respond promptly in writing to the
complaint. The Department of Health shall investigate a written
34 complaint filed with the department and report its findings to the
hospital and the patient², and to the appropriate professional
36 board, as deemed appropriate by the Commissioner of Health.
The Commissioner of Health may levy a fine against a hospital
38 for a violation of this act, or of any rule or regulation adopted
pursuant to this act, in an amount to be determined by the

commissioner.^{1]} ²

2 5. The Commissioner of Health is authorized to adopt rules
and regulations in accordance with the provisions of the
4 "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1
et seq.) to effectuate the purposes of this act.

6 6. This act shall take effect on the 90th day following
enactment.

8

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HEALTH

Health Care Facilities and Providers

12

14 Establishes a bill of rights for persons receiving care in a general
hospital.

1 m. To examine and receive an explanation of his bill,
regardless of source of payment, and to receive information or be
3 advised on the availability of sources of financial assistance to
help pay for the patient's care, as necessary;

5 n. To expect reasonable continuity of care;

7 o. To be advised of the hospital rules and regulations that
apply to his conduct as a patient; and,

9 p. To treatment without discrimination as to race, age,
religion, sex, national origin, or source of payment.

11 3. The administrator of a general hospital shall insure that a
written notice of the rights set forth in this act be given to the
patient or his guardian upon admittance to the hospital and to
13 each individual already in residence. The administrator shall also
post this notice in a conspicuous public place in the hospital.

15 4. A patient whose rights as defined herein are violated shall
have a cause of action against the person committing the
17 violation. The Department of Health may initiate an action in
the name of the State to enforce the provisions of this act and
19 any rules and regulations promulgated pursuant to this act. The
action may be brought in any court of competent jurisdiction to
21 enforce these rights and to recover actual and punitive damages
for their violation. Any plaintiff who prevails in any action shall
23 be entitled to recover reasonable attorney's fees and costs of the
action.

25 5. The Commissioner of Health is authorized to adopt rules
and regulations in accordance with the provisions of the
27 "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1
et seq.) to effectuate the purposes of this act.

29 6. This act shall take effect on the 90th day following
enactment

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33 *Sponsor's*
STATEMENT

35 Very often, a person admitted to a general hospital for the
treatment of an injury or illness often feels overwhelmed and
37 uncertain. The anxiety and stress that accompanies a serious or
painful physical condition may be increased by the unfamiliar

1 surroundings and new situations with which the individual must
now deal. As a result, rather than asking for complete and
3 accurate information vital to his situation, a patient may find
himself reticent to appropriately question hospital personnel.

5 This bill establishes a bill of rights for persons receiving care in
a general hospital and is an attempt to clarify for the patient
7 what he can legitimately expect from hospital staff as well as his
own responsibilities. The administrator of the hospital shall see
9 to it that a written notice of these rights be given to each patient
when he is admitted and also that the notice be posted in a
11 conspicuous public place in the facility. The promulgation and
dissemination of this bill of rights for hospital patients hopefully
13 will contribute to more effective patient care and greater
satisfaction for the patient, his physician, and the hospital
15 organization.

17 HEALTH

Health Care Facilities and Providers

19 Establishes a bill of rights for persons receiving care in a general
hospital.

ASSEMBLY HEALTH AND HUMAN RESOURCES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1843

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: APRIL 18, 1988

The Assembly Health and Human Resources Committee favorably reports Assembly Bill No. 1843 with committee amendments.

As amended by the committee, this bill establishes a bill of rights for general hospital patients in order to clarify for these persons what they can legitimately expect from hospital staff, as well as their own responsibilities. The amended bill requires a hospital administrator to ensure that a written summary of these rights is given to each patient upon admission and that a written notice listing these rights is posted in a conspicuous place in the patient's room, and also that the notice is posted in a conspicuous public place in the hospital.

The amended bill provides that every person admitted to a general hospital licensed by the State Department of health pursuant to P.L. 1971, c. 136 (C. 26:2H-1 et seq.), shall have the right:

- a. To considerate and respectful care consistent with sound nursing and medical practices;
- b. To be informed of the name of the physician responsible for coordinating his care;
- c. To obtain from the physician complete, current information concerning his diagnosis, treatment, and prognosis in terms he can reasonably be expected to understand, and when it is not medically advisable to give this information to the patient, to have this information made available to another person designated by the patient on the patient's behalf;
- d. To receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment and which, except for those emergency situations not requiring an informed consent, shall include as a minimum the specific procedure or treatment, the medically significant risks involved, and the possible duration of incapacitation, if any, as well as an

explanation of the significance of the patient's informed consent. The patient shall be advised of any medically significant alternatives for care or treatment; however, this does not include experimental treatments that are not yet accepted by the medical establishment;

e. To refuse treatment to the extent permitted by law and to be informed of the medical consequences of such action;

f. To privacy to the extent consistent with providing adequate medical care to the patient, which shall not preclude discussion of a patient's case or examination of a patient by appropriate health care personnel;

g. To privacy and confidentiality of all records pertaining to the patient's treatment, except as otherwise provided by law or third party payment contract, and to access to those records, including receipt of a copy thereof at reasonable cost, upon request, unless his physician states in writing that access by the patient is not medically advisable;

h. To expect that within its capacity, the hospital will make reasonable response to the patient's request for services, including the services of an interpreter in a language other than English if 10% or more of the population in the hospital's service area speaks that language;

i. To be informed by the patient's physician of any continuing health care requirements which may follow discharge and to receive assistance from the physician and appropriate hospital staff in arranging for required follow-up care after discharge;

j. To be informed by the hospital of the necessity of transfer to another facility prior to the transfer and of any alternatives to it which may exist, which transfer shall not be effected unless it is determined by the physician to be medically necessary;

k. To be informed, upon request, of other health care and educational institutions that the hospital has authorized to participate in the patient's treatment;

l. To be advised if the hospital proposes to engage in or perform human research or experimentation and to refuse to participate in these projects;

m. To examine and receive an explanation of the patient's bill, regardless of the source of payment, and to receive information or be advised on the availability of sources of financial assistance to help pay for the patient's care, as necessary;

n. To expect reasonable continuity of care;

o. To be advised of the hospital rules and regulations that apply to his conduct as a patient; and,

p. To treatment without discrimination as to race, age, religion, sex, national origin, or source of payment.

The amended bill further provides that a patient may file a written complaint against a hospital for a failure to comply with the provisions of this bill, or any rule or regulation adopted pursuant to this bill, either with the hospital or the Department of Health. The hospital or the Department of Health, as appropriate, shall respond promptly in writing to the complaint. The Department of Health shall investigate a written complaint filed with the department and report its findings to the hospital and the patient, and to the appropriate professional board, as deemed appropriate by the Commissioner of Health. The Commissioner of Health may levy a fine against a hospital for a violation of this bill, or of any rule or regulation adopted pursuant to this bill, in an amount to be determined by the commissioner.

The amended bill takes effect on the 90th day after its enactment.

The committee amended the bill to:

(1) provide that a hospital patient is entitled to considerate and respectful care consistent with sound nursing and medical practices;

(2) delete the requirement that a patient be informed of the names of health care personnel, other than the physician responsible for coordinating the patient's care, who have direct contact with the patient, because name tags are worn by all hospital staff and, due to the fact that a patient may have daily contact with staff from multiple departments, it would not be feasible to identify all of the hospital personnel with whom a patient may have contact;

(3) provide that the other person to whom current information concerning the patient's diagnosis, treatment, and prognosis shall be given, when it is not medically advisable to give this information to the patient, shall be designated by the patient to receive this information;

(4) delete as redundant the requirement for a patient in an emergency situation that does not require an informed consent, to receive the specific procedure or treatment required without unnecessary delay, because the bill already provides that emergency situations do not require informed consent;

(5) require a hospital administrator to ensure that a written summary of a patient's rights is given to each patient upon admission and that a written notice listing these rights is posted in a conspicuous place in the patient's room, and also that the notice is posted in a conspicuous public place in the hospital;

(6) permit a hospital to provide the services of an interpreter, rather than a translator, in a language other than English if 10% or more of the population in the hospital's service area speaks that language, in order to clarify that a hospital is not required to hire a translator if it already has a staff member who speaks a language other than English; and

(7) delete the provision that a patient may bring suit against a hospital staff member for violation of his rights as provided in this bill, in order to minimize the possibility of frivolous lawsuits, and to provide as follows: that the patient may file a written complaint against a hospital for a failure to comply with the provisions of this bill, or any rule or regulation adopted pursuant to the bill, either with the hospital or the Department of Health; that the hospital or the Department of Health, as appropriate, shall respond promptly in writing to the complaint; that the Department of Health shall investigate a written complaint filed with the department and report its findings to the hospital and the patient, and to the appropriate professional board, as deemed appropriate by the Commissioner of Health; and, finally, that the Commissioner of Health may levy a fine against a hospital for a violation of this bill, or of any rule or regulation adopted pursuant to this bill, in an amount to be determined by the commissioner.

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 1843

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate Institutions, Health and Welfare Committee favorably reports Assembly Bill No. 1843 (2R).

This bill establishes a bill of rights for general hospital patients in order to clarify for these persons what they can legitimately expect from hospital staff, as well as their own responsibilities. The bill requires a hospital administrator to ensure that a written summary of these rights is given to each patient upon admission and that a written notice listing these rights is posted in a conspicuous place in the patient's room, and also that the notice is posted in a conspicuous public place in the hospital.

The bill provides that every person admitted to a general hospital licensed by the State Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), shall have the right:

- a. To considerate and respectful care consistent with sound nursing and medical practices;
- b. To be informed of the name of the physician responsible for coordinating his care;
- c. To obtain from the physician complete, current information concerning his diagnosis, treatment, and prognosis in terms he can reasonably be expected to understand;
- d. To receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment;
- e. To refuse treatment to the extent permitted by law and to be informed of the medical consequences of such action;
- f. To privacy to the extent consistent with providing adequate medical care to the patient;
- g. To privacy and confidentiality of all records pertaining to the patient's treatment, except as otherwise provided by law or third party payment contract, and to access to those records;
- h. To expect that within its capacity, the hospital will make reasonable response to the patient's request for services, including the services of an interpreter in a language other than English if 10% or more of the population in the hospital's service area speaks that language;

i. To be informed by the patient's physician of any continuing health care requirements which may follow discharge and to receive assistance from the physician and appropriate hospital staff in arranging for required follow-up care after discharge;

j. To be informed by the hospital of the necessity of transfer to another facility prior to the transfer and of any alternatives to it which may exist;

k. To be informed, upon request, of other health care and educational institutions that the hospital has authorized to participate in the patient's treatment;

l. To be advised if the hospital proposes to engage in or perform human research or experimentation and to refuse to participate in these projects;

m. To examine and receive an explanation of the patient's bill, regardless of the source of payment, and to receive information or be advised on the availability of sources of financial assistance to help pay for the patient's care, as necessary;

n. To expect reasonable continuity of care;

o. To be advised of the hospital rules and regulations that apply to his conduct as a patient; and,

p. To treatment without discrimination as to race, age, religion, sex, national origin, or source of payment.

The bill further provides that a patient may file a written complaint against a hospital for a failure to comply with the provisions of this bill, or any rule or regulation adopted pursuant to this bill, either with the hospital or the Department of Health. The hospital or the Department of Health, as appropriate, shall respond promptly in writing to the complaint. The Department of Health shall investigate a written complaint filed with the department and report its findings to the hospital and the patient.

This bill is identical to the Senate Committee Substitute for Senate Bill Nos. 448 and 2485 (Bubba and Stockman), which the committee also reported favorably on this date.