

[First Reprint]

**SENATE, No. 1796**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED MAY 5, 2008

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**Senator Vitale and Assemblywoman Greenstein**

**SYNOPSIS**

Authorizes enhanced DHSS monitoring of hospital financial performance and intervention in management of identified distressed hospitals.

**CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on May 15, 2008, with amendments.

(Sponsorship Updated As Of: 6/17/2008)

1 AN ACT concerning fiscal monitoring of hospitals and amending  
2 and supplementing Title 26 of the Revised Statutes.

3

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

6

7 1. Section 5 of P.L.1971, c.136 (C.26:2H-5) is amended to read  
8 as follows:

9 5. a. The commissioner, to effectuate the provisions and purposes  
10 of this act, shall have the power to inquire into health care services  
11 and the operation of health care facilities and to conduct periodic  
12 inspections of such facilities with respect to the fitness and  
13 adequacy of the premises, equipment, personnel, rules and bylaws  
14 and the adequacy of financial resources and sources of future  
15 revenues.

16 b. The commissioner, with the approval of the board, shall  
17 adopt and amend rules and regulations in accordance with the  
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
19 seq.) to effectuate the provisions and purposes of this act, including  
20 but not limited to: (1) the establishment of requirements for a  
21 uniform Statewide system of reports and audits relating to the  
22 quality of health care provided, health care facility utilization and  
23 costs; (2) certification by the department of schedules of rates,  
24 payments, reimbursement, grants and other charges for health care  
25 services as provided in section 18; and (3) standards and procedures  
26 relating to the licensing of health care facilities and the institution  
27 of certain additional health care services.

28 c. The commissioner may enter into contracts with any  
29 government agency, institution of higher learning, voluntary  
30 nonprofit agency, or appropriate planning agency or council; and  
31 such entities are authorized to enter into contracts with the  
32 commissioner to effectuate the provisions and purposes of this act.

33 d. The commissioner may provide consultation and assistance  
34 to health care facilities in operational techniques, including but not  
35 limited to, planning, principles of management, and standards of  
36 health care services, and, in the case of a general hospital, to  
37 appoint a monitor if the commissioner determines that a monitor is  
38 warranted for a hospital that is in financial distress or at risk of  
39 being in financial distress, and to participate in the development and  
40 oversight of corrective measures to resolve a hospital's financial or  
41 potential financial difficulties, pursuant to section 2 of P.L. , c.  
42 (C. )(pending before the Legislature as this bill).

43 e. At the request of the commissioner, health care facilities  
44 shall furnish to the Department of Health and Senior Services such

**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:

<sup>1</sup>Senate SHH committee amendments adopted May 15, 2008.

1 reports and information as it may require to effectuate the  
2 provisions and purposes of this act, excluding confidential  
3 communications from patients.

4 f. The commissioner may institute or cause to be instituted in a  
5 court of competent jurisdiction proceedings to compel compliance  
6 with the provisions of this act or the determinations, rules,  
7 regulations and orders of the commissioner.

8 g. Notwithstanding any rules and regulations governing private  
9 long-term health care facilities and enforcing the 1967 Life Safety  
10 Code, as amended and supplemented, the commissioner shall permit  
11 third floor occupancy of such facilities by owners, members of their  
12 immediate families, and licensed professionals employed at such  
13 facilities.

14 (cf: P.L.1998, c.43, s.3)

15

16 2. (New section) a. The Commissioner of Health and Senior  
17 Services shall prescribe, by regulation: (1) specific indicators by  
18 which a general hospital may be evaluated for financial soundness,  
19 and the thresholds at which it may be considered to be in financial  
20 distress or at risk of being in financial distress; and (2) the  
21 progressive levels of monitoring and department participation in the  
22 development and oversight of corrective measures to resolve a  
23 general hospital's financial or potential financial difficulties,  
24 including the various levels of involvement by an appointed  
25 monitor. 'The indicators and progressive levels of monitoring and  
26 intervention shall be guided by the indicators and levels of  
27 monitoring and intervention identified in the final report of the New  
28 Jersey Commission on Rationalizing Health Care Resources, issued  
29 on January 24, 2008.'<sup>1</sup>

30 b. The thresholds of specified financial indicators and  
31 corresponding Department of Health and Senior Services  
32 involvement that may be triggered by them shall include, but are  
33 not limited to, measures relating to:

34 (1) days cash-on-hand;

35 (2) cushion ratio;

36 (3) days in accounts receivable;

37 (4) average payment period;

38 (5) total margin;

39 (6) earnings before depreciation; and

40 (7) any other factor which the commissioner deems appropriate,  
41 including failure to provide required or requested financial  
42 information.

43 c. If the commissioner determines that a hospital is in financial  
44 distress or at risk of being in financial distress 'after considering the  
45 specified financial indicators set forth in subsection b. of this  
46 section'<sup>1</sup>, then the commissioner may appoint '<sup>1</sup>, in consultation with  
47 the hospital,<sup>1</sup> a monitor '<sup>1</sup>, at the hospital's expense,']'<sup>1</sup> to prevent

1 further financial deterioration. 'Payment for the monitor shall be  
2 determined through a contingency contract established between the  
3 hospital and the monitor. The contract shall be subject to approval  
4 by the department with regard to the monitor's responsibilities. In  
5 no case shall a hospital bear financial liability if no savings result  
6 from measures undertaken pursuant to the contract.

7 The appointed monitor shall have demonstrated expertise in  
8 hospital administration, management or operations.' A monitor: (1)  
9 shall be authorized to attend all hospital board meetings, executive  
10 committee meetings, finance committee meetings, steering  
11 committee meetings, turnaround committee meetings, or any other  
12 meetings concerning the hospital's fiscal matters; **'[and]'** (2) may  
13 be authorized to have voting and veto powers over actions taken in  
14 the above mentioned meetings <sup>1</sup>; (3) shall report to the  
15 commissioner and the full hospital board of trustees in a manner  
16 prescribed by the commissioner; and (4) shall serve for such period  
17 of time as may be determined by the commissioner in consultation  
18 with the hospital.

19 The commissioner shall maintain continuing oversight of the  
20 actions and recommendations of the monitor to ensure that the  
21 public interest is protected'.

22

23 3. (New section ) As a condition of licensure under P.L.1971,  
24 c.136 (C.26:2H-1 et seq.), a general hospital shall:

25 a. provide monthly unaudited financial information and annual  
26 audited financial statements to the Department of Health and Senior  
27 Services, and such other financial information as the department  
28 may request; and

29 b. permit the Commissioner of Health and Senior Services, or a  
30 monitor appointed by the commissioner, as applicable, to oversee  
31 its financial operations, and, if the commissioner determines that  
32 the hospital is at risk of being in financial distress or is in financial  
33 distress based on criteria specified by regulation, participate in the  
34 development and implementation of a corrective plan to resolve the  
35 hospital's financial difficulties, pursuant to section 2 of P.L. , c.  
36 (C. )(pending before the Legislature as this bill).

37

38 4. The Commissioner of Health and Senior Services, pursuant to  
39 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), shall adopt such rules and regulations as are necessary to  
41 effectuate the purposes of this act.

42

43 5. This act shall take effect on the 180th day after the date of  
44 enactment, but the Commissioner of Health and Senior Services  
45 may take such anticipatory administrative action in advance thereof  
46 as shall be necessary for the implementation of the act.