

SENATE SUBSTITUTE FOR
SENATE, No. 1710

STATE OF NEW JERSEY
217th LEGISLATURE

ADOPTED DECEMBER 7, 2017

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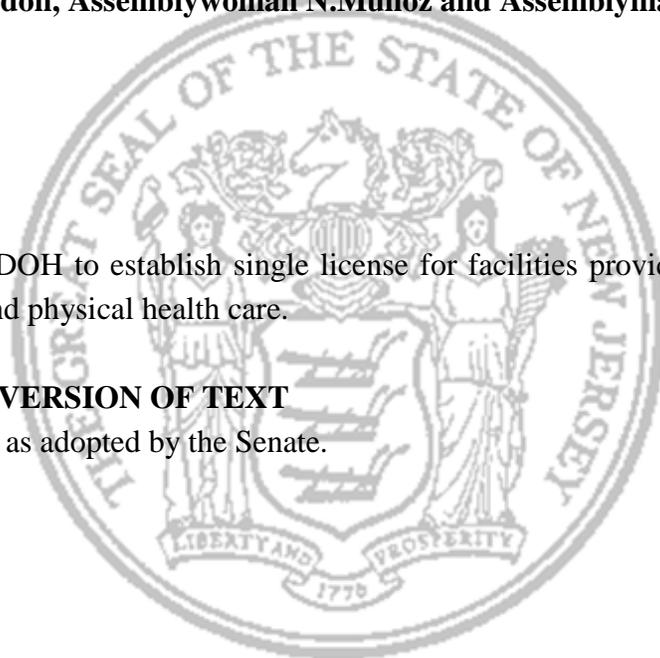
Senator Gordon, Assemblywoman N.Munoz and Assemblyman O'Scanlon

SYNOPSIS

Requires DOH to establish single license for facilities providing integrated behavioral and physical health care.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



(Sponsorship Updated As Of: 1/9/2018)

1 AN ACT concerning health care facility licensure and amending and
2 supplementing P.L.1971, c.136.

3

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

6

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

9 1. It is hereby declared to be the public policy of the State that
10 hospital and related health care services and behavioral health care
11 services of the highest quality, of demonstrated need, efficiently
12 provided and **[properly utilized]** accessible at a reasonable cost are
13 of vital concern to the public health. It is further declared that
14 integrating physical and behavioral health care is the most effective
15 way to improve the health of individuals and the population at
16 large. In order to provide for the protection and promotion of the
17 health of the inhabitants of the State, the **[State]** Department of
18 Health shall have the central responsibility for the development and
19 administration of the State's policy with respect to health planning,
20 hospital and related health care services and health care facility cost
21 containment programs, behavioral health treatment and prevention
22 programs, and all public and private institutions, whether State,
23 county, municipal, incorporated or not incorporated, serving
24 principally as residential health care facilities, nursing or maternity
25 homes, or as facilities for the prevention, diagnosis, care, or
26 treatment of human disease, mental illness, substance use disorder,
27 pain, injury, deformity, or physical condition, shall be subject to the
28 provisions of this act.

29 (cf: P.L.1992, c.160, s.21)

30

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

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

35 a. "Health care facility" means the facility or institution,
36 whether public or private, that is engaged principally in providing
37 services for health maintenance organizations, diagnosis, or
38 treatment of human disease, pain, injury, deformity, or physical
39 condition, including, but not limited to, a general hospital, special
40 hospital, mental hospital, public health center, diagnostic center,
41 treatment center, rehabilitation center, extended care facility, skilled
42 nursing home, nursing home, intermediate care facility, tuberculosis
43 hospital, chronic disease hospital, maternity hospital, outpatient
44 clinic, dispensary, home health care agency, residential health care
45 facility, dementia care home, and bioanalytical laboratory (except

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.

1 as specifically excluded hereunder), or central services facility
2 serving one or more such institutions but excluding institutions that
3 provide healing solely by prayer and excluding such bioanalytical
4 laboratories as are independently owned and operated, and are not
5 owned, operated, managed, or controlled, in whole or in part,
6 directly or indirectly by any one or more health care facilities, and
7 the predominant source of business of which is not by contract with
8 health care facilities within the State of New Jersey and which
9 solicit or accept specimens and operate predominantly in interstate
10 commerce.

11 b. "Health care service" means the preadmission, outpatient,
12 inpatient, and postdischarge care provided in or by a health care
13 facility, and such other items or services as are necessary for such
14 care, which are provided by or under the supervision of a physician
15 for the purpose of health maintenance organizations, diagnosis, or
16 treatment of human disease, pain, injury, disability, deformity, or
17 physical condition, including, but not limited to, nursing service,
18 home care nursing, and other paramedical service, ambulance
19 service, service provided by an intern, resident in training or
20 physician whose compensation is provided through agreement with
21 a health care facility, laboratory service, medical social service,
22 drugs, biologicals, supplies, appliances, equipment, bed and board,
23 but excluding services provided by a physician in his private
24 practice, except as provided in sections 7 and 12 of P.L.1971, c.136
25 (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by
26 prayer, and services provided by first aid, rescue and ambulance
27 squads as defined in the "New Jersey Highway Traffic Safety Act of
28 1987," P.L.1987, c.284 (C.27:5F-18 et seq.).

29 c. "Construction" means the erection, building, or substantial
30 acquisition, alteration, reconstruction, improvement, renovation,
31 extension, or modification of a health care facility, including its
32 equipment, the inspection and supervision thereof; and the studies,
33 surveys, designs, plans, working drawings, specifications,
34 procedures, and other actions necessary thereto.

35 d. "Board" means the Health Care Administration Board
36 established pursuant to this act.

37 e. (Deleted by amendment, P.L.1998, c.43).

38 f. "Government agency" means a department, board, bureau,
39 division, office, agency, public benefit, or other corporation, or any
40 other unit, however described, of the State or political subdivision
41 thereof.

42 g. (Deleted by amendment, P.L.1991, c.187).

43 h. (Deleted by amendment, P.L.1991, c.187).

44 i. "Department" means the Department of Health.

45 j. "Commissioner" means the Commissioner of Health.

46 k. "Preliminary cost base" means that proportion of a hospital's
47 current cost which may reasonably be required to be reimbursed to

1 a properly utilized hospital for the efficient and effective delivery of
2 appropriate and necessary health care services of high quality
3 required by such hospital's mix of patients. The preliminary cost
4 base initially may include costs identified by the commissioner and
5 approved or adjusted by the commission as being in excess of that
6 proportion of a hospital's current costs identified above, which
7 excess costs shall be eliminated in a timely and reasonable manner
8 prior to certification of the revenue base. The preliminary cost base
9 shall be established in accordance with regulations proposed by the
10 commissioner and approved by the board.

11 l. (Deleted by amendment, P.L.1992, c.160).

12 m. "Provider of health care" means an individual (1) who is a
13 direct provider of health care service in that the individual's primary
14 activity is the provision of health care services to individuals or the
15 administration of health care facilities in which such care is
16 provided and, when required by State law, the individual has
17 received professional training in the provision of such services or in
18 such administration and is licensed or certified for such provision or
19 administration; or (2) who is an indirect provider of health care in
20 that the individual (a) holds a fiduciary position with, or has a
21 fiduciary interest in, any entity described in subparagraph b(ii) or
22 subparagraph b(iv); provided, however, that a member of the
23 governing body of a county or any elected official shall not be
24 deemed to be a provider of health care unless he is a member of the
25 board of trustees of a health care facility or a member of a board,
26 committee or body with authority similar to that of a board of
27 trustees, or unless he participates in the direct administration of a
28 health care facility; or (b) received, either directly or through his
29 spouse, more than one-tenth of his gross annual income for any one
30 or more of the following:

31 (i) Fees or other compensation for research into or instruction in
32 the provision of health care services;

33 (ii) Entities engaged in the provision of health care services or in
34 research or instruction in the provision of health care services;

35 (iii) Producing or supplying drugs or other articles for
36 individuals or entities for use in the provision of or in research into
37 or instruction in the provision of health care services;

38 (iv) Entities engaged in producing drugs or such other articles.

39 n. "Private long-term health care facility" means a nursing
40 home, skilled nursing home, or intermediate care facility presently
41 in operation and licensed as such prior to the adoption of the 1967
42 Life Safety Code by the Department of Health in 1972 and which
43 has a maximum 50-bed capacity and which does not accommodate
44 Medicare or Medicaid patients.

45 o. (Deleted by amendment, P.L.1998, c.43).

1 p. "State Health Planning Board" means the board established
2 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct
3 certificate of need review activities.

4 q. "Integrated health care" means the systematic coordination
5 of general and behavioral healthcare. This care may address mental
6 illnesses, substance use disorders, health behaviors including their
7 contributions to chronic medical illnesses, life stressors and crises,
8 stress-related physical symptoms, and ineffective patterns of health
9 care utilization.

10 (cf: P.L.2015, c.125, s.1)

11
12 3. (New section) a. Pursuant to the "Administrative Procedure
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of
14 Health shall adopt regulations necessary to develop an integrated
15 licensing system in which facilities licensed under the authority of
16 P.L.1971, c.136 (C.26:2H-1 et seq.); P.L.1957, c.146 (C.30:9A-1 et
17 seq.); P.L.1975, c.305 (C.26:2B-7 et seq.); sections 5 and 6 of
18 P.L.1989, c.51 (C.26:2BB-5 and C.26:2BB-6); P.L.1969, c.152
19 (C.26:2G-1 et seq.); or Reorganization Plan No. 001-2017 may
20 provide primary care, mental health care, or substance use disorder
21 treatment services, or a combination of such services, under a single
22 license.

23 b. The regulations shall:

24 (1) identify services authorized to be provided as primary care,
25 mental health care, or substance use disorder treatment pursuant to
26 an integrated health care facility license;

27 (2) require a single integrated health care facility license for a
28 facility, which license shall specify the scope of primary care,
29 mental health care, and substance use disorder treatment services
30 that the facility is authorized to provide under the integrated health
31 care facility license;

32 (3) permit a facility to hold a designation as an ambulatory care
33 facility, community mental health program, substance use disorder
34 treatment facility, or other type of facility recognized under State or
35 federal law under the integrated health care facility license without
36 requiring a separate license;

37 (4) identify staffing requirements consistent with staff members'
38 scope of professional practice and credentials;

39 (5) establish standards for information sharing among providers
40 and among core and non-core team members;

41 (6) establish requirements for collection of data on identified
42 outcome measures;

43 (7) permit sharing of clinical space, administrative staff,
44 medical records storage, and other facility resources among
45 different categories of services, unless a separation is necessary to
46 protect the health and safety of patients or the public or to comply
47 with federal or State health privacy laws and regulations; and

1 (8) establish application requirements, compliance inspections,
2 investigations, and enforcement actions, including but not limited to
3 fees and penalties.

4 c. In developing the regulations, the commissioner shall:

5 (1) consult with the Division of Medical Assistance and Health
6 Services in the Department of Human Services to develop policies
7 that minimize barriers to participation and reimbursement in the
8 Medicaid and NJ FamilyCare programs faced by licensed facilities
9 for all qualifying services; and

10 (2) promote policies that:

11 (a) support an effective and efficient administration of a full
12 range of integrated, comprehensive health care;

13 (b) support providers' identification of risk factors for mental
14 illness and substance use disorders, which may include physical
15 health diagnoses;

16 (c) support an increased awareness of prevention and treatment;

17 (d) reduce the stigma associated with receiving behavioral
18 health treatment;

19 (e) will lead to improved access to mental health care and
20 substance use disorder treatment services for all persons;

21 (f) will lead to improved general health and wellness, including
22 physical health, mental health, and substance use disorders, and
23 prevent chronic disease; and

24 (g) will leverage partnerships with local health authorities,
25 employers, faith-based organizations, and others involved in
26 promoting community health.

27
28 4. This act shall take effect on the first day of the thirteenth
29 month next following the date of enactment, except that the
30 Commissioner of Health may take any anticipatory administrative
31 action in advance as shall be necessary for the implementation of
32 this act.

33
34
35 STATEMENT

36
37 This Senate floor substitute require the Department of Health
38 (DOH) to establish a single license for facilities providing
39 integrated behavioral and physical health care. The substitute
40 builds upon Reorganization Plan No. 001-2017, which transferred
41 the Division of Mental Health and Addiction Services from the
42 Department of Human Services (DHS) to the DOH, to create an
43 integrated licensing system for facilities that previously would have
44 had to obtain licenses from multiple state agencies to provide the
45 full range of health care services their patients require.

46 The substitute requires the DOH to establish a new integrated
47 health care facility licensing system under which facilities will

1 provide primary care, mental health care, substance use disorder
2 treatment, or a combination of such services under a single license.
3 The DOH would have broad authority to set standards for facilities
4 holding an integrated health care facility license, similar to its
5 authority over other health care facilities. The licensing system
6 described in the legislation differs from the existing licensing
7 regime most notably in that it requires a single integrated health
8 care facility license for a facility that specifies the scope of services
9 provided, rather than separate licenses for different services; and
10 that it explicitly permit sharing of clinical space, administrative
11 staff, medical records storage, and other facility resources among
12 different categories of services, unless a separation is necessary to
13 protect the health and safety of patients and the public or to comply
14 with federal or State health privacy laws and regulations.

15 The substitute bill also requires that the DOH will consider
16 several factors not directly related to facility licensure. In
17 developing regulations for the integrated health care facility
18 licensing system, the DOH will consult with the Division of
19 Medical Assistance and Health Services to develop policies that
20 minimize barriers to participation and reimbursement in the
21 Medicaid and NJ FamilyCare programs faced by licensed facilities
22 for all qualifying services. Additionally, the DOH will promote
23 policies that:

- 24 • support an effective and efficient administration of a full range
25 of integrated, comprehensive health care;
- 26 • support providers' identification of risk factors for mental
27 illness and substance use disorders, which may include physical
28 health diagnoses;
- 29 • support an increased awareness of prevention and treatment;
- 30 • reduce the stigma associated with receiving behavioral health
31 treatment;
- 32 • will lead to improved access to mental health care and substance
33 use disorder treatment services for all persons;
- 34 • will lead to improved general health and wellness, including
35 physical health, mental health, and substance use disorders, and
36 prevent chronic disease; and
- 37 • will leverage partnerships with local health authorities,
38 employers, faith-based organizations, and others involved in
39 promoting community health.