

ASSEMBLY, No. 1364

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes process for independent informal dispute resolution hearings in DOH.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning informal dispute resolution in DOH and
2 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:*

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7 1. As used in this act:

8 “Commissioner” means the Commissioner of Health.

9 “Facility” means a nursing home, assisted living residence,
10 comprehensive personal care home, residential health care facility,
11 or dementia care home licensed by the Department of Health
12 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

13 “Independent third party panel” means an entity comprising three
14 objective individuals knowledgeable about the survey and
15 inspection process for nursing homes, assisted living residences,
16 comprehensive personal care homes, residential health care
17 facilities, and dementia care homes.

18

19 2. a. Notwithstanding any other provision of law to the
20 contrary, the commissioner shall contract with an independent third
21 party panel to conduct an informal dispute resolution hearing when
22 requested by a facility that objects to any deficiency cited during a
23 facility inspection. The individuals comprising the independent
24 third party panel shall have no official, professional affiliation with
25 the department or with the facility requesting the hearing.

26 b. A facility requesting informal dispute resolution pursuant to
27 subsection a. of this section shall make the request in a form and
28 manner as shall be required by the commissioner by regulation.

29 c. Hearings before an independent third party panel pursuant to
30 this section shall be conducted pursuant to the “Administrative
31 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), and the
32 “Uniform Administrative Procedure Rules,” N.J.A.C.1:1-1.1 et seq.

33 d. The independent third party panel shall determine if the
34 disputed deficiency shall be upheld, deleted, or modified, and shall
35 report its findings to the facility and to the commissioner in a form
36 and manner consistent with applicable State and federal regulations.

37 e. The commissioner may concur with, overrule, or modify
38 determinations made by the independent third party panel.

39 f. In the event that an informal dispute resolution hearing fails
40 to resolve the matter at issue, nothing in this act shall be construed
41 to limit the right to pursue a contested case pursuant to the
42 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
43 seq.).

44

45 3. There shall be appropriated from the Department of Health
46 budget such funds as may be necessary to implement the provisions
47 of this act.

1 4. The Commissioner of Health shall adopt, pursuant to the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
3 seq.), rules and regulations as are necessary to implement the
4 provisions of this act.

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6 5. This act shall take effect 180 days after the date of
7 enactment.

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10 STATEMENT

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12 This bill requires the Department of Health to establish a process
13 for nursing homes, assisted living residences, comprehensive
14 personal care homes, residential health care facilities, and dementia
15 care homes to request an informal dispute resolution hearing before
16 an independent third party panel concerning any deficiencies cited
17 during an inspection of the facility to which the facility objects.

18 A facility requesting informal dispute resolution pursuant to the
19 bill is to make the request in a form and manner as may be required
20 by the Commissioner of Health by regulation. The department will
21 be required to contract with an independent third party panel to
22 conduct a requested hearing. The independent third party panel is
23 to be an entity comprising three objective individuals who are
24 knowledgeable about the survey and inspection process for the
25 relevant facilities, who have no professional affiliation with the
26 department or with the facility requesting the hearing.

27 Hearings before the independent third party panel are to be
28 conducted pursuant to the “Administrative Procedure Act,”
29 P.L.1968, c.410 (C.52:14B-1 et seq.) and the “Uniform
30 Administrative Procedure Rules,” N.J.A.C.1:1-1.1 et seq. The
31 independent third party panel will make a determination as to
32 whether the disputed deficiency will be upheld, deleted, or
33 modified, and will report its findings to the facility and to the
34 commissioner in a form and manner that is consistent with
35 applicable State and federal regulations. The commissioner may
36 concur with, overrule, or modify determinations made by the
37 independent third party panel.

38 In the event that an informal dispute resolution hearing fails to
39 resolve the matter at issue, nothing in the bill will be construed to
40 limit the right to pursue a contested case pursuant to the
41 “Administrative Procedure Act.”

42 Funding for the informal dispute resolution process is to be
43 drawn from the department’s budget.