

# SENATE, No. 315

## STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Senators Diegnan, Gopal and Stack**

**SYNOPSIS**

Requires contracts for sale of certain health care entities to preserve employee wages and benefits and to honor collective bargaining agreements.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning health care entities and collective bargaining  
2 and supplementing chapter 12 of Title 34 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. a. As used in this section, "health care entity" means a  
8 health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1  
9 et seq.), a staffing registry, or a home care services agency as  
10 defined in section 1 of P.L.1947, c.262 (C.45:11-23).

11 b. Any contract or agreement that provides for the sale or  
12 transfer of ownership or control of a health care entity shall  
13 provide:

14 (1) if employees of the health care entity are covered by an  
15 unexpired collective bargaining agreement, that the provisions of  
16 the collective bargaining agreement shall remain in effect until the  
17 existing expiration date of the agreement or a date six months after  
18 the full effectuation of the sale or transfer, whichever is later; and

19 (2) that the wages and benefits, including health care, paid time  
20 off, retirement, and education benefits, of non-managerial  
21 employees of the health care entity who are not covered by an  
22 unexpired collective bargaining agreement shall not be reduced or  
23 diminished during the period ending six months after the full  
24 effectuation of the sale or transfer.

25 c. All parties to a contract or agreement covered by this  
26 section, and all health care entities sold or transferred pursuant to a  
27 contract or agreement covered by this section, shall comply with all  
28 provisions that are required by this section to be included in the  
29 contract or agreement pursuant to subsection b. of this section,  
30 regardless of whether those provisions are expressly included in the  
31 contract or agreement.

32 d. Notwithstanding the foregoing, action taken pursuant to and  
33 in compliance with a collective bargaining agreement entered into  
34 by an exclusive representative of employees of a health care entity  
35 sold or transferred pursuant to a contract or agreement covered by  
36 this section shall not be considered a violation of this section.

37 e. An employee who has been affected by a violation of this  
38 section may bring an action in any court of competent jurisdiction  
39 against any party to a contract or agreement covered by this section  
40 and any health care entity sold or transferred pursuant to a contract  
41 or agreement covered by this section for violation of any obligation  
42 imposed by this section. The court shall have authority to order  
43 injunctive relief to prevent or remedy a violation of any obligation  
44 imposed by this section. If the court finds that, by reason of a  
45 violation of any obligation imposed by this section, a plaintiff has  
46 suffered a loss of wages or benefits, the court shall award back pay  
47 for all losses of wages and benefit pay, the costs of benefits the  
48 health care entity or other defendant would have incurred for

1 benefits lost by the plaintiff, expenses incurred by the plaintiff as a  
2 result of the lost benefits, and an amount equal to back pay as  
3 liquidated damages.

4 f. The court shall award a plaintiff prevailing in an action  
5 brought pursuant to subsection e. of this section reasonable  
6 attorneys' fees.

7  
8 2. This act shall take effect immediately and shall apply to  
9 contracts or agreements for the sale or transfer of health care  
10 entities entered into on or after the effective date of this act.

11  
12

13 STATEMENT

14

15 This bill provides that contracts or agreements for the sale or  
16 transfer of a health care entity will not affect the wages, benefits, or  
17 terms of a collective bargaining agreement in place for a certain period  
18 following the sale or transfer. As used in the bill, "health care entity"  
19 means a licensed health care facility, a staffing registry, or a home care  
20 services agency.

21 Specifically, the bill provides that any contract or agreement that  
22 provides for the sale or transfer of ownership or control of a health  
23 care entity will provide:

24 1) if employees of the health care entity are covered by an  
25 unexpired collective bargaining agreement, that the provisions of the  
26 collective bargaining agreement will remain in effect until the existing  
27 expiration date of the agreement or a date six months after the full  
28 effectuation of the sale or transfer, whichever is later; and

29 2) that the wages and benefits, including health care, paid time  
30 off, retirement, and education benefits, of non-managerial employees  
31 of the health care entity who are not covered by an unexpired  
32 collective bargaining agreement will not be reduced or diminished  
33 during the period ending six months after the full effectuation of the  
34 sale or transfer.

35 All parties to a contract or agreement for the sale or transfer of a  
36 health care entity will be required to comply with all provisions that  
37 are required under the bill to be included in the contract or agreement,  
38 regardless of whether those provisions are expressly included in the  
39 contract or agreement.

40 Action taken pursuant to and in compliance with a collective  
41 bargaining agreement entered into by an exclusive representative of  
42 employees of a health care entity sold or transferred pursuant to a  
43 contract or agreement to which the bill applies will not be considered a  
44 violation of the requirements of the bill.

45 An employee who has been affected by a violation of the  
46 requirements of the bill may bring an action in any court of competent  
47 jurisdiction against any party to a contract or agreement that is subject  
48 to the requirements of the bill, including a health care entity that is

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1 being sold or transferred pursuant to the contract or agreement. The  
2 court may order injunctive relief to prevent or remedy a violation of  
3 the requirements of the bill and, if the court finds the plaintiff suffered  
4 a loss of wages or benefits, the court is to award back pay for all losses  
5 of wages and benefit pay, the costs of benefits the health care entity or  
6 other defendant would have incurred for benefits lost by the plaintiff,  
7 expenses incurred by the plaintiff as a result of the lost benefits, and an  
8 amount equal to back pay as liquidated damages. Courts are also to  
9 award a prevailing plaintiff reasonable attorneys' fees.

10 The bill will take effect immediately and apply to contracts or  
11 agreements for the sale or transfer of health care entities entered into  
12 on or after the effective date of the bill.