

CHAPTER 58

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

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

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

C.26:2H-5 Commissioner's powers.

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

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

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

d. The commissioner may provide consultation and assistance to health care facilities in operational techniques, including but not limited to, planning, principles of management, and standards of health care services, and, in the case of a general hospital, to appoint a monitor if the commissioner determines that a monitor is warranted for a hospital that is in financial distress or at risk of being in financial distress, and to participate in the development and oversight of corrective measures to resolve a hospital's financial or potential financial difficulties, pursuant to section 2 of P.L.2008, c.58 (C.26:2H-5.1a).

e. At the request of the commissioner, health care facilities shall furnish to the Department of Health and Senior Services such reports and information as it may require to effectuate the provisions and purposes of this act, excluding confidential communications from patients.

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

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

C.26:2H-5.1a Regulations prescribed by commissioner relative to appointment of monitor.

2. a. The Commissioner of Health and Senior Services shall prescribe, by regulation: (1) specific indicators by which a general hospital may be evaluated for financial soundness, and

the thresholds at which it may be considered to be in financial distress or at risk of being in financial distress; and (2) the progressive levels of monitoring and department participation in the development and oversight of corrective measures to resolve a general hospital's financial or potential financial difficulties, including the various levels of involvement by an appointed monitor. The indicators and progressive levels of monitoring and intervention shall be guided by the indicators and levels of monitoring and intervention identified in the final report of the New Jersey Commission on Rationalizing Health Care Resources, issued on January 24, 2008.

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

- (1) days cash-on-hand;
- (2) cushion ratio;
- (3) days in accounts receivable;
- (4) average payment period;
- (5) total margin;
- (6) earnings before depreciation; and

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

c. If the commissioner determines that a hospital is in financial distress or at risk of being in financial distress after considering the specified financial indicators set forth in subsection b. of this section, then the commissioner may appoint, in consultation with the hospital, a monitor to prevent further financial deterioration. Payment for the monitor shall be determined through a contingency contract established between the hospital and the monitor. The contract shall be subject to approval by the department with regard to the monitor's responsibilities. In no case shall a hospital bear financial liability if no savings result from measures undertaken pursuant to the contract.

The appointed monitor shall have demonstrated expertise in hospital administration, management or operations. A monitor: (1) shall be authorized to attend all hospital board meetings, executive committee meetings, finance committee meetings, steering committee meetings, turnaround committee meetings, or any other meetings concerning the hospital's fiscal matters; (2) may be authorized to have voting and veto powers over actions taken in the above mentioned meetings; (3) shall report to the commissioner and the full hospital board of trustees in a manner prescribed by the commissioner; and (4) shall serve for such period of time as may be determined by the commissioner in consultation with the hospital.

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

C.26:2H-5.1b Conditions for licensure of general hospital.

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

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

b. permit the Commissioner of Health and Senior Services, or a monitor appointed by the commissioner, as applicable, to oversee its financial operations, and, if the commissioner determines that the hospital is at risk of being in financial distress or is in financial distress based on criteria specified by regulation, participate in the development and implementation

of a corrective plan to resolve the hospital's financial difficulties, pursuant to section 2 of P.L.2008, c.58 (C.26:2H-5.1a).

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

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

Approved August 8, 2008.