

CHAPTER 125

AN ACT providing for the licensure of dementia care homes by the Department of Health and amending and supplementing various parts of the statutory law.

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

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

C.26:2H-2 Definitions.

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

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis, or treatment of human disease, pain, injury, deformity, or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, residential health care facility, dementia care home, and bioanalytical laboratory (except as specifically excluded hereunder) or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bioanalytical laboratories as are independently owned and operated, and are not owned, operated, managed, or controlled, in whole or in part, directly or indirectly by any one or more health care facilities, and the predominant source of business of which is not by contract with health care facilities within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce.

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

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

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

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

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

- g. (Deleted by amendment, P.L.1991, c.187).
- h. (Deleted by amendment, P.L.1991, c.187).
- i. "Department" means the Department of Health.
- j. "Commissioner" means the Commissioner of Health.

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

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

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

- (i) Fees or other compensation for research into or instruction in the provision of health care services;
- (ii) Entities engaged in the provision of health care services or in research or instruction in the provision of health care services;
- (iii) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care services;
- (iv) Entities engaged in producing drugs or such other articles.

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

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

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

- 2. Section 19 of P.L.1992, c.160 (C.26:2H-7a) is amended to read as follows:

C.26:2H-7a Exemptions from certificate of need requirement.

19. Notwithstanding the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) to the contrary, the following are exempt from the certificate of need requirement:

Community-based primary care centers;
Outpatient drug and alcohol services;
Hospital-based medical detoxification for drugs and alcohol;
Ambulance and invalid coach services;
Mental health services which are non-bed related outpatient services;
Residential health care facility services;
Dementia care homes;
Capital improvements and renovations to health care facilities;
Additions of medical/surgical, adult intensive care and adult critical care beds in hospitals;
Replacement of existing major moveable equipment;
Inpatient operating rooms;
Alternate family care programs;
Hospital-based subacute care;
Ambulatory care facilities;
Comprehensive outpatient rehabilitation services;
Special child health clinics;
New technology in accordance with the provisions of section 18 of P.L.1998, c.43 (C.26:2H-7d);
Transfer of ownership interest except in the case of an acute care hospital;
Change of site for approved certificate of need within the same county;
Additions to vehicles or hours of operation of a mobile intensive care unit;
Relocation or replacement of a health care facility within the same county, except for an acute care hospital;
Continuing care retirement communities authorized pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.);
Magnetic resonance imaging;
Adult day health care facilities;
Pediatric day health care facilities;
Chronic or acute renal dialysis facilities; and
Transfer of ownership of a hospital to an authority in accordance with P.L.2006, c.46 (C.30:9-23.15 et al.).

3. Section 1 of P.L.2007, c.65 (C.26:2H-12.33) is amended to read as follows:

C.26:2H-12.33 Availability of certain information on departmental website.

1. a. The Department of Health shall make available to the public, through its official department website, information regarding:

(1) the ownership of each long-term care facility and adult day health services facility licensed by the department; and

(2) any violation of statutory standards or rules and regulations of the department pertaining to the care of patients or physical plant standards found at any such facility by the department.

As used in this section, “long-term care facility” means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

b. The information made available to the public pursuant to subsection a. of this section shall be provided in a manner that would enable a member of the public to search the website

by name of a facility or its owner in order to access the information. The department shall also make the information available in writing, upon request.

c. The information regarding the ownership of a long-term care or adult day health services facility that is made available to the public pursuant to subsection a. of this section shall provide, at a minimum: the name of the owner of a facility as listed on the facility's license and, if there is more than one owner or the facility is owned by a corporation, the name of each person who holds at least a 10 percent interest in the facility; the name of any other licensed long-term care or adult day health services facility in the State owned by this owner, corporation, and each person who holds at least a 10 percent interest in the facility, as applicable; and the address and contact information for the facility.

d. The information that is displayed on the official department website pursuant to subsection a. of this section shall include Internet web links to the New Jersey Report Card for Nursing Homes maintained by the department and the Medicare Nursing Home Compare database maintained by the federal Centers for Medicare & Medicaid Services.

4. Section 2 of P.L.1984, c.114 (C.26:2H-14.2) is amended to read as follows:

C.26:2H-14.2 Heat emergency action plan.

2. a. Every nursing home as defined in section 2 of P.L.1976, c.120 (C.30:13-2) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), every residential health care facility as defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), and every dementia care home as defined in section 17 of P.L.2015, c.125 (C.26:2H-148) shall establish by written policy a heat emergency action plan which shall include those procedures to be followed in the event of a heat emergency in order to protect the health and welfare of its residents, and which shall be approved by the department. The department shall review a heat emergency action plan established pursuant to this act at least once in each year.

b. A health care facility included within the provisions of this act shall be required to notify the department immediately in the event of a heat emergency.

5. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to read as follows:

C.26:2H-14.3 Rules, regulations relative to air conditioning, adequate ventilation.

3. The Commissioner of Health shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act. The regulations shall require that:

a. Each health care facility included within the provisions of this act and which is not equipped with air conditioning on the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), shall provide for and operate adequate ventilation in all areas used by patients or residents, including, but not limited to, the use of ceiling fans, wall fans or portable fans, where appropriate, so that the temperature in these areas does not exceed 82 degrees Fahrenheit, but the health care facility shall not directly assess patients or residents for the purchase or installation of the fans or other ventilating equipment.

(1) The regulations shall also provide that within two years after the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), every nursing home included within the provisions of this act, and every residential health care facility as specified in this paragraph, shall be equipped with air conditioning, except that the commissioner may grant a nursing home or residential health care facility a waiver from the air conditioning requirement to give the

nursing home or residential health care facility one additional year to comply with the air conditioning requirement, for which waiver the nursing home or residential health care facility shall apply on a form and in a manner prescribed by the commissioner, if the nursing home or residential health care facility can demonstrate to the satisfaction of the commissioner that the failure to grant such a waiver would pose a serious financial hardship to the nursing home or residential health care facility. The air conditioning shall be operated so that the temperature in all areas used by patients or residents does not exceed 82 degrees Fahrenheit. The air conditioning requirement established in this subsection shall apply to a residential health care facility only: (1) upon enactment into law of legislation that increases the rate of reimbursement provided by the State under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.), which rate is certified by the Commissioner of Health to be sufficient to enable the facility to meet the costs of complying with the requirement; and (2) if the facility qualifies for funds for energy efficiency rehabilitation through the "Petroleum Overcharge Reimbursement Fund," established pursuant to P.L.1987, c.231 (C.52:18A-209 et seq.), which funds can be applied towards equipping the facility with air conditioning. A nursing home or residential health care facility shall not directly assess patients or residents for the purchase or installation of the air conditioning equipment.

(2) The regulations shall also provide that within two years after the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), every dementia care home shall be equipped with air conditioning, except that the commissioner may grant a dementia care home a waiver from the air conditioning requirement to give the dementia care home one additional year to comply with the air conditioning requirement, for which waiver the dementia care home shall apply on a form and in a manner prescribed by the commissioner, if the dementia care home can demonstrate to the satisfaction of the commissioner that the failure to grant such a waiver would pose a serious financial hardship to that facility. The air conditioning shall be operated so that the temperature in all areas used by residents does not exceed 82 degrees Fahrenheit. A dementia care home shall not directly assess residents for the purchase or installation of the air conditioning equipment; and

b. Patients or residents are identified by predisposition, due to illness, medication or otherwise, to heat-related illness and that during a heat emergency, their body temperature, dehydration status and other symptoms of heat-related illness are monitored frequently and regularly, any anomalies are promptly reported to the attending physician, and any necessary therapeutic or palliative measures are instituted, including the provision of liquids, where required.

6. Section 2 of P.L.1989, c.173 (C.26:2H-14.4) is amended to read as follows:

C.26:2H-14.4 Air conditioning required in certain facilities.

2. A nursing home or residential health care facility included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.) which is constructed or expanded after the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), or a dementia care home included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.) which is constructed or expanded after the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), shall be equipped with air conditioning in all areas used by patients or residents, and the air conditioning shall be operated so that the temperature in these areas does not exceed 82 degrees Fahrenheit.

7. Section 2 of P.L.1977, c.238 (C.26:2H-37) is amended to read as follows:

C.26:2H-37 Definitions.

2. As used in this act, and unless the context otherwise requires:

a. "Boarding or nursing home" or "home" means: a private nursing home or convalescent home regulated under chapter 11 of Title 30 of the Revised Statutes; a facility or institution, private or public, regulated and licensed as an extended care facility, skilled nursing home, nursing home, or intermediate care facility pursuant to P.L.1971, c.136 (C.26:2H-1 to 26:2H-26); a residential health care facility, as defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 to 26:2H-26); or a dementia care home as defined in section 17 of P.L.2015, c.125 (C.26:2H-148).

b. "Owner" means the holder or holders of the title in fee simple to the property on which the home is located.

c. "Licensee" means the holder or holders of a license to operate a boarding or nursing home pursuant to chapter 11 of Title 30 of the Revised Statutes, P.L.1953, c.212 (C.30:11A-1 to 30:11A-14) or P.L.1971, c.136 (C.26:2H-1 to 26:2H-26).

d. "Department" means the State Department of Health.

8. Section 3 of P.L.1991, c.201 (C.26:2H-55) is amended to read as follows:

C.26:2H-55 Definitions.

3. As used in P.L.1991, c.201 (C.26:2H-53 et seq.):

"Adult" means an individual who has reached majority pursuant to section 3 of P.L.1972, c.81 (C.9:17B-3).

"Advance directive for health care" or "advance directive" means a writing executed in accordance with the requirements of P.L.1991, c.201. An "advance directive" may include a proxy directive or an instruction directive, or both.

"Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

"Decision making capacity" means a patient's ability to understand and appreciate the nature and consequences of health care decisions, including the benefits and risks of each, and alternatives to any proposed health care, and to reach an informed decision. A patient's decision making capacity is evaluated relative to the demands of a particular health care decision.

"Declarant" means an adult who has the mental capacity to execute an advance directive and does so.

"Do not resuscitate order" means a physician's written order not to attempt cardiopulmonary resuscitation in the event the patient suffers a cardiac or respiratory arrest.

"Emergency care" means immediate treatment provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, impairment, or death.

"Health care decision" means a decision to accept or to refuse any treatment, service, or procedure used to diagnose, treat, or care for a patient's physical or mental condition, including life-sustaining treatment. "Health care decision" also means a decision to accept or to refuse the services of a particular physician, nurse, other health care professional or health care institution, including a decision to accept or to refuse a transfer of care.

"Health care institution" means all institutions, facilities, and agencies licensed, certified, or otherwise authorized by State law to administer health care in the ordinary course of business, including hospitals, nursing homes, residential health care facilities, dementia care homes, home health care agencies, hospice programs operating in this State, mental health institutions, facilities or agencies, or institutions, facilities, and agencies for the

developmentally disabled. The term "health care institution" shall not be construed to include "health care professionals" as defined in P.L.1991, c.201.

"Health care professional" means an individual licensed by this State to administer health care in the ordinary course of business or practice of a profession.

"Health care representative" means the individual designated by a declarant pursuant to the proxy directive part of an advance directive for the purpose of making health care decisions on the declarant's behalf, and includes an individual designated as an alternate health care representative who is acting as the declarant's health care representative in accordance with the terms and order of priority stated in an advance directive.

"Instruction directive" means a writing which provides instructions and direction regarding the declarant's wishes for health care in the event that the declarant subsequently lacks decision making capacity.

"Life-sustaining treatment" means the use of any medical device or procedure, artificially provided fluids and nutrition, drugs, surgery or therapy that uses mechanical or other artificial means to sustain, restore, or supplant a vital bodily function, and thereby increase the expected life span of a patient.

"Other health care professionals" means health care professionals other than physicians and nurses.

"Patient" means an individual who is under the care of a physician, nurse, or other health care professional.

"Permanently unconscious" means a medical condition that has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment. The term "permanently unconscious" includes without limitation a persistent vegetative state or irreversible coma.

"Physician" means an individual licensed to practice medicine and surgery in this State.

"Proxy directive" means a writing which designates a health care representative in the event the declarant subsequently lacks decision making capacity.

"State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Terminal condition" means the terminal stage of an irreversibly fatal illness, disease or condition. A determination of a specific life expectancy is not required as a precondition for a diagnosis of a "terminal condition," but a prognosis of a life expectancy of six months or less, with or without the provision of life-sustaining treatment, based upon reasonable medical certainty, shall be deemed to constitute a terminal condition.

9. Section 2 of P.L.1977, c.448 (C.30:11B-2) is amended to read as follows:

C.30:11B-2 Definitions.

2. "Alzheimer's disease and related disorders" means a form of dementia characterized by a general loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

"Community residence for the developmentally disabled" means any community residential facility housing up to 16 persons with developmental disabilities, which provides food, shelter, and personal guidance for persons with developmental disabilities who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include,

but not be limited to, group homes, halfway houses, supervised apartment living arrangements, and hostels.

"Community residence for the mentally ill" means any community residential facility which provides food, shelter, and personal guidance, under such supervision as required, to not more than 15 persons with mental illness who require assistance temporarily or permanently, in order to live independently in the community. These residences shall be approved for a purchase of service contract or an affiliation agreement pursuant to procedures established by the Division of Mental Health and Addiction Services in the Department of Human Services or the Division of Children's System of Care in the Department of Children and Families, as applicable. These residences shall not house persons who have been assigned to a State psychiatric hospital after having been found not guilty of a criminal offense by reason of insanity or unfit to be tried on a criminal charge. These residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, family care homes, and hostels.

"Community residence for persons with head injuries" means a community residential facility providing food, shelter, and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.).

"Dementia" means a chronic or persistent disorder of the mental processes due to organic brain disease, for which no curative treatment is available, and marked by memory disorders, changes in personality, deterioration in personal care, impaired reasoning ability, and disorientation.

"Developmental disability" or "developmentally disabled" means a severe, chronic disability of a person which: a. is attributable to a mental or physical impairment or combination of mental or physical impairments; b. is manifest before age 22; c. is likely to continue indefinitely; d. results in substantial functional limitations in three or more of the following areas of major life activity, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living, or economic self-sufficiency; and e. reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated. Developmental disability includes, but is not limited to, severe disabilities attributable to an intellectual disability, autism, cerebral palsy, epilepsy, spina bifida, and other neurological impairments where the above criteria are met.

"Mentally ill" or "mental illness" means any psychiatric disorder which has required an individual to receive either inpatient psychiatric care or outpatient psychiatric care on an extended basis.

"Person with head injury" means a person who has sustained an injury, illness, or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of cognitive, behavioral, social, or physical functioning which causes partial or total disability, but excluding a person with Alzheimer's disease and related disorders or other forms of dementia.

10. Section 2 of P.L.1978, c.159 (C.40:55D-66.2) is amended to read as follows:

C.40:55D-66.2 Definitions.

2. As used in this act:

a. "Community residence for the developmentally disabled" means any community residential facility licensed pursuant to P.L.1977, c.448 (C.30:11B-1 et seq.) providing food, shelter, and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et al.). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Addiction Services in the Department of Human Services. As used in this act, "developmentally disabled person" means a person who is developmentally disabled as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), and "mentally ill person" means a person who is afflicted with a mental illness as defined in section 30 of P.L.1987, c.116 (C.30:4-27.2), but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

b. "Community shelter for victims of domestic violence" means any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L.1979, c.337 (C.30:14-1 et seq.), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

c. "Community residence for persons with head injuries" means a community residential facility licensed pursuant to P.L.1977, c.448 (C.30:11B-1 et seq.) providing food, shelter, and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et al.).

d. "Person with head injury" means a person who has sustained an injury, illness, or traumatic changes to the skull, the brain contents, or its coverings which results in a temporary or permanent physiobiological decrease of mental, cognitive, behavioral, social, or physical functioning which causes partial or total disability, but excluding a person with Alzheimer's disease and related disorders or other forms of dementia.

e. "Community residence for the terminally ill" means any community residential facility operated as a hospice program providing food, shelter, personal guidance, and health care services, under such supervision as required, to not more than 15 terminally ill persons.

f. "Alzheimer's disease and related disorders" means a form of dementia characterized by a general loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

g. "Dementia" means a chronic or persistent disorder of the mental processes due to organic brain disease, for which no curative treatment is available, and marked by memory disorders, changes in personality, deterioration in personal care, impaired reasoning ability, and disorientation.

11. Section 2 of P.L.1977, c.239 (C.52:27G-2) is amended to read as follows:

C.52:27G-2 Definitions.

2. As used in this act, unless the context clearly indicates otherwise:

a. "Abuse" means the willful infliction of physical pain, injury, or mental anguish; unreasonable confinement; or the willful deprivation of services which are necessary to maintain a person's physical and mental health. However, no person shall be deemed to be abused for the sole reason he is being furnished nonmedical remedial treatment by spiritual means through prayer alone, in accordance with a recognized religious method of healing, in lieu of medical treatment;

b. An "act" of any facility or government agency shall be deemed to include any failure or refusal to act by such facility or government agency;

c. "Administrator" means any person who is charged with the general administration or supervision of a facility, whether or not such person has an ownership interest in such facility, and whether or not such person's functions and duties are shared with one or more other persons;

d. "Caretaker" means a person employed by a facility to provide care or services to an elderly person, and includes, but is not limited to, the administrator of a facility;

e. "Exploitation" means the act or process of using a person or his resources for another person's profit or advantage without legal entitlement to do so;

f. "Facility" means any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, skilled nursing homes, intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers, residential health care facilities, dementia care homes, special hospitals, veterans' hospitals, chronic disease hospitals, psychiatric hospitals, mental hospitals, developmental centers or facilities, continuing care retirement communities, including independent living sections thereof, day care facilities for the elderly and medical day care centers;

g. "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the State or to which the State is a party, or by any county or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities;

h. "Guardian" means any person with the legal right to manage the financial affairs and protect the rights of any patient, resident, or client of a facility, who has been declared an incapacitated person by a court of competent jurisdiction;

i. "Institutionalized elderly," "elderly" or "elderly person" means any person 60 years of age or older, who is a patient, resident, or client of any facility;

j. "Office" means the Office of the Ombudsman for the Institutionalized Elderly established herein;

k. "Ombudsman" means the administrator and chief executive officer of the Office of the Ombudsman for the Institutionalized Elderly;

1. "Patient, resident or client" means any elderly person who is receiving treatment or care in any facility in all its aspects, including, but not limited to, admission, retention, confinement, commitment, period of residence, transfer, discharge, and any instances directly related to such status.

12. Section 3 of P.L.1979, c.496 (C.55:13B-3) is amended to read as follows:

C.55:13B-3 Terms defined.

3. As used in this act:

a. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel, or established guest house wherein a minimum of 85 percent of the units of dwelling space are offered for limited tenure only, any resource family home as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1), any community residence for the developmentally disabled and any community residence for the mentally ill as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), any adult family care home as defined in section 3 of P.L.2001, c.304 (C.26:2Y-3), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary, or higher education for the use of its students, any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the New Jersey Commission on Higher Education, any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner, and any owner-occupied, one-family residential dwelling made available for occupancy by not more than six guests, where the primary purpose of the occupancy is to provide charitable assistance to the guests and where the owner derives no income from the occupancy. A dwelling shall be deemed "owner-occupied" within the meaning of this section if it is owned or operated by a nonprofit religious or charitable association or corporation and is used as the principal residence of a minister or employee of that corporation or association. For any such dwelling, however, fire detectors shall be required as determined by the Department of Community Affairs.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Financial services" means any assistance permitted or required by the commissioner to be furnished by an owner or operator to a resident in the management of personal financial matters, including, but not limited to, the cashing of checks, holding of personal funds for safekeeping in any manner or assistance in the purchase of goods or services with a resident's personal funds.

d. "Limited tenure" means residence at a rooming or boarding house on a temporary basis, for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

e. "Operator" means any individual who is responsible for the daily operation of a rooming or boarding house.

f. "Owner" means any person who owns, purports to own, or exercises control of any rooming or boarding house.

g. "Personal services" means any services permitted or required to be furnished by an owner or operator to a resident, other than shelter, including, but not limited to, meals or other food services, and assistance in dressing, bathing, or attending to other personal needs.

h. "Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

i. "Single room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and which is not used for limited tenure occupancy in a hotel, motel, or established guest house, regardless of the number of individuals occupying any room or rooms.

j. "Unit of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged, or designed to be occupied for sleeping or dwelling purposes by one or more persons.

k. (Deleted by amendment, P.L.2015, c.125)

l. (Deleted by amendment, P.L.2015, c.125)

13. Section 6 of P.L.1979, c.496 (C.55:13B-6) is amended to read as follows:

C.55:13B-6 Standards.

6. The commissioner shall establish standards to ensure that every rooming and boarding house in this State is constructed and operated in such a manner as will protect the health, safety, and welfare of its residents and at the same time preserve and promote a homelike atmosphere appropriate to such facilities, including, but not limited to, standards to provide for the following:

- a. Safety from fire;
- b. Safety from structural, mechanical, plumbing, and electrical deficiencies;
- c. Adequate light and ventilation;
- d. Physical security;
- e. Protection from harassment, fraud, and eviction without due cause;
- f. Clean and reasonably comfortable surroundings;
- g. Adequate personal and financial services rendered in boarding houses;
- h. Disclosure of owner identification information;
- i. Maintenance of orderly and sufficient financial and occupancy records;
- j. Referral of residents, by the operator, to social service and health agencies for needed services;

k. Assurance that no constitutional, civil, or legal right will be denied solely by reason of residence in a rooming or boarding house;

l. Reasonable access for employees of public and private agencies, and reasonable access for other citizens upon receiving the consent of the resident to be visited by them;

m. Opportunity for each resident to live with as much independence, autonomy, and interaction with the surrounding community as the resident is capable of doing.

n. (Deleted by amendment, P.L.2015, c.125)

14. Section 7 of P.L.1979, c.496 (C.55:13B-7) is amended to read as follows:

C.55:13B-7 Rooming, boarding house licensure; fee.

7. a. (1) No person shall own or operate a rooming or boarding house, hold out a building as available for rooming or boarding house occupancy, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house without a valid license to own or operate such a facility, issued by the commissioner and, if appropriate, by a municipality which has elected to issue such licenses pursuant to P.L.1993, c.290 (C.40:52-9 et seq.).

(2) (Deleted by amendment, P.L.2015, c.125)

(3) Any person found to be in violation of this subsection shall be liable for a civil penalty of not more than \$5,000 for each building so owned or operated, which penalty shall be payable to the appropriate licensing entity.

b. The commissioner shall establish separate categories of licensure for owning and for operating a rooming or boarding house, provided, however, that an owner who himself operates such a facility need not also possess an operator's license.

If an owner seeking to be licensed is other than an individual, the application shall state the name of an individual who is a member, officer, or stockholder in the corporation or association seeking to be licensed, and the same shall be designated the primary owner of the rooming or boarding house.

Each application for licensure shall contain such information as the commissioner may prescribe and, unless the person is licensed by a municipality to own or operate a rooming and boarding house pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), shall be accompanied by a fee established by the commissioner which shall not be less than \$150 or more than \$600, except as provided in subsection e. of this section. If, upon receipt of the fee and a review of the application, the commissioner determines that the applicant will operate, or provide for the operation of, a rooming or boarding house in accordance with the provisions of this act, the commissioner shall issue a license to the applicant.

Each license shall be valid for one year from the date of issuance, but may be renewed upon application by the owner or operator and upon payment of the same fee required for initial licensure.

c. Only one license shall be required to own a rooming or boarding house, but an endorsement thereto shall be required for each separate building owned and operated, or intended to be operated, as a rooming or boarding house. Each application for licensure or renewal shall indicate every such building for which an endorsement is required. If, during the term of a license, an additional endorsement is required, or an existing one is no longer required, an amended application for licensure shall be submitted.

d. A person making application for, or who has been issued, a license to own or operate a rooming or boarding house who conceals the fact that the person has been denied a license to own or operate a residential facility, or that the person's license to own or operate a residential facility has been revoked by a department or agency of state government in this or any other state is liable for a civil penalty of not more than \$5,000, and any license to own or operate a rooming or boarding house which has been issued to that person shall be immediately revoked.

e. The commissioner shall annually review the cost of administering and enforcing this section and shall establish by rule such changes to the license application fee as may be necessary to cover the cost of such administration and enforcement.

C.55:13B-5.1 Responsibilities assumed by DOH; inter-agency agreement.

15. a. The Department of Community Affairs shall cease its responsibilities for licensure, inspections, and the establishment and enforcement of standards with respect to each

rooming or boarding house that provides services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, as of the date that the Department of Health assumes these responsibilities pursuant to section 18 of P.L.2015, c.125 (C.26:2H-149).

b. The Department of Community Affairs shall establish and enter into an inter-agency agreement with the Department of Health as necessary for the purposes of this section and section 18 of P.L.2015, c.125 (C.26:2H-149).

C.55:13B-5.2 DCA to stop issuing licenses.

16. The Department of Community Affairs shall not issue a license to any person to own or operate a new rooming or boarding house that provides services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, on or after the date of enactment of P.L.2015, c.125 (C.55:13B-5.1 et al.).

C.26:2H-148 Definitions relative to dementia care homes.

17. As used in sections 18 through 26 of P.L.2015, c.125 (C.26:2H-149 et seq.):

"Alzheimer's disease and related disorders" means a form of dementia characterized by a general loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

"Commissioner" means the Commissioner of Health.

"Department" means the Department of Health.

"Dementia" means a chronic or persistent disorder of the mental processes due to organic brain disease, for which no curative treatment is available, and marked by memory disorders, changes in personality, deterioration in personal care, impaired reasoning ability, and disorientation.

"Dementia care home" means a community residential facility which: (1) provides services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia; (2) is subject to the licensure authority of the Department of Health as a health care facility pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); (3) and meets the requirements of section 19 of P.L.2015, c.125 (C.26:2H-150).

C.26:2H-149 DOH responsible for licensure, inspections, standards relative to dementia homes.

18. a. (1) Notwithstanding any law, rule, or regulation to the contrary, commencing on or after the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.) and subject to the provisions of subsection b. of this section, the Department of Health shall be responsible for licensure, inspections, and the establishment and enforcement of standards with respect to each community residential facility in the State that provides services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, which shall be thereafter known as a dementia care home.

(2) The department shall be empowered to exercise such authority with respect to a dementia care home as the department is granted with respect to any other health care facility licensed by the department, pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and any rules and regulations adopted pursuant thereto, and in accordance with the provisions of P.L.2015, c.125 (C.55:13B-5.1 et al.).

b. The department shall establish and enter into an inter-agency agreement with the Department of Community Affairs as necessary for the purposes of subsection a. of this section.

c. (1) Whenever any reference is made in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding to rooming and boarding houses for residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, the same shall be deemed to mean or refer to "dementia care homes."

(2) Whenever the term "Department of Community Affairs" appears or any reference is made thereto in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding pertaining to rooming and boarding houses for residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, the same shall be deemed to mean or refer to the "Department of Health."

d. A dementia care home that is operating as a rooming or boarding house that provides services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, on the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.) shall be granted provisional licensure by the department for a period of one year following the effective date. At the end of that period, the department shall issue a license to the facility pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or make continued licensure subject to such actions by the facility as the commissioner determines necessary to effectuate the purposes of P.L.1971, c.136 and P.L.2015, c.125 (C.55:13B-5.1 et al.).

C.26:2H-150 Dementia care home.

19. a. A dementia care home shall be a facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association, which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the operator of the facility, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of such persons, in addition to such facilities, services, activities, and assistance as the Commissioner of Health may prescribe by regulation that are designed to meet the specific needs of residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia. A dementia care home shall not include: a community residence for the developmentally disabled as defined in section 2 of P.L.1977, c.448 (C.30:11B-2); a facility or living arrangement operated by, or under contract with, a State department or agency, upon the written authorization of the commissioner; or a privately operated establishment licensed pursuant to chapter 11 of Title 30 of the Revised Statutes.

b. A resident of a dementia care home shall be a person with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, as prescribed by regulation of the commissioner, who is: 18 years of age or older; ambulant with or without assistive devices; certified by a licensed physician to be free from communicable disease and not in need of skilled nursing care; and, except in the case of a person 65 years of age or over, in need of dietary services, supervision of self-administration of medications, supervision of and assistance in activities of daily living, or assistance in

obtaining health care services. A resident of a dementia care home shall not be given skilled nursing care while a resident, except that the provisions of this subsection shall not be construed to prevent: care of residents in emergencies or during temporary illness for a period of one week or less; or a licensed physician from ordering nursing or other health care services for the resident.

C.26:2H-151 Licensure required for dementia care home; violations, civil penalty.

20. a. (1) A person shall not operate a dementia care home, or offer, advertise, or hold out a facility as a dementia care home, hold out a building as available for occupancy by dementia care home residents, or apply for any necessary construction or planning approvals related to the establishment of a dementia care home, without a valid license having been issued by the department for the operation of that facility in accordance with the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.) and P.L.2015, c.125 (C.55:13B-5.1 et al.).

(2) A person shall not offer, advertise, or hold out a dementia care home as another type of health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

(3) A person found to be in violation of paragraph (1) or (2) of this subsection shall be liable for a civil penalty for each building so operated in accordance with the provisions of section 25 of P.L.2015, c.125 (C.26:2H-156).

b. Notwithstanding the provisions of any municipal ordinance to the contrary, a dementia care home shall meet such requirements as the commissioner shall establish by regulation for the posting of visible signs in its local community that identify the location of the facility.

C.26:2H-152 Standards for dementia care homes.

21. The commissioner shall establish standards to ensure that each dementia care home is constructed and operated in such a manner as will protect the health, safety, and welfare of its residents and at the same time preserve and promote a homelike atmosphere appropriate to these facilities, including, but not limited to, standards to provide for the following:

- a. Safety from fire;
- b. Safety from structural, mechanical, plumbing, and electrical deficiencies;
- c. Adequate light and ventilation;
- d. Physical security;
- e. Protection from harassment, fraud, and eviction without due cause;
- f. Clean and reasonably comfortable surroundings;
- g. Adequate personal and financial services rendered in the facility;
- h. Disclosure of owner identification information;
- i. Maintenance of orderly and sufficient financial and occupancy records;
- j. Referral of residents, by the operator, to social service and health care providers for needed services;
- k. Assurance that no constitutional, civil, or legal right will be denied solely by reason of residence in a dementia care home;
- l. Reasonable access for employees of public and private agencies, and reasonable access for other citizens upon receiving the consent of the resident to be visited by them;
- m. Opportunity for each resident to live with as much independence, autonomy, and interaction with the surrounding community as the resident is capable of doing; and
- n. Assurance that the needs of residents of a dementia care home will be met, which shall include, at a minimum, the following:

(1) staffing levels, which shall ensure that the ratio of direct care staff to residents in the facility is equal to or higher than that which existed on the date of enactment of P.L.2015, c.125 (C.55:13B-5.1 et al.);

(2) staff qualifications and training;

(3) special dietary needs of residents;

(4) special supervision requirements relating to the individual needs of residents;

(5) building safety requirements appropriate to the needs of residents, including the requirement to maintain the operation 24 hours a day, seven days a week, of window, door, and any other locks or security system designed to prevent the elopement of a resident;

(6) special health monitoring of residents by qualified, licensed health care professionals, including a requirement that a medical assessment by a physician be performed on a resident with special needs as described in this subsection, as determined necessary by the commissioner, prior to admission and on a quarterly basis thereafter, to ensure that the facility is appropriate to the needs of the resident; and

(7) criteria for discharging residents which shall be set forth in the admission agreement, which shall be provided to the resident or the resident's representative prior to or upon admission. The commissioner may revoke the license of any provider who violates the criteria for discharging residents.

C.26:2H-153 Waiver of certain requirements for certain facilities.

22. a. Notwithstanding the provisions of any other law or regulation to the contrary, the commissioner may grant, to a dementia care home that is operating as a rooming or boarding house that provides services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, on the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), a temporary or permanent waiver of one or more requirements established by regulation of the commissioner for health care facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) that the commissioner has determined are otherwise applicable to the dementia care home, if the dementia care home can demonstrate to the satisfaction of the commissioner that:

(1) the granting of the waiver would not pose a threat to the health, safety, or welfare of its residents; and

(2) the failure to grant such a waiver would pose a serious financial hardship to the facility.

b. A dementia care home that is seeking a waiver pursuant to subsection a. of this section shall apply for the waiver on a form and in a manner prescribed by the commissioner.

C.26:2H-154 Rights of dementia care home residents.

23. a. Every resident of a dementia care home facility shall have the right:

(1) To manage the resident's own financial affairs;

(2) To wear the resident's own clothing;

(3) To determine the resident's own dress, hair style, or other personal effects according to individual preference;

(4) To retain and use the resident's personal property in the resident's immediate living quarters, so as to maintain individuality and personal dignity, except where the facility can demonstrate that it would be unsafe, impractical to do so, or infringe upon the rights of others, and that mere convenience is not the facility's motive to restrict this right;

(5) To receive and send unopened correspondence;

- (6) To unaccompanied access to a telephone at a reasonable hour and to a private phone at the resident's expense;
- (7) To privacy;
- (8) To retain the services of the resident's own personal physician at the resident's own expense or under a health care plan and to confidentiality and privacy concerning the resident's medical condition and treatment;
- (9) To unrestricted communication, including personal visitation with any person of the resident's choice, at any reasonable hour;
- (10) To make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable;
- (11) To present grievances on behalf of the resident or others to the operator, State governmental agencies, or other persons without threat of reprisal in any form or manner;
- (12) To a safe and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;
- (13) To refuse to perform services for the facility, except as contracted for by the resident and the operator;
- (14) To practice the religion of the resident's choice, or to abstain from religious practice; and
- (15) To not be deprived of any constitutional, civil, or legal right solely by reason of residence in a dementia care home.

b. The operator of a dementia care home shall ensure that a written notice of the rights set forth in subsection a. of this section is given to every resident upon admittance to the facility and to each resident upon request. The operator shall also post this notice in a conspicuous public place in the facility. This notice shall include the name, address, and telephone numbers of the Office of the Ombudsman for the Institutionalized Elderly, county welfare agency, and county office on aging.

c. A person or resident whose rights as set forth in subsection a. of this section are violated shall have a cause of action against any person committing the violation. The action may be brought in any court of competent jurisdiction to enforce those rights and to recover actual and punitive damages for their violation. A plaintiff who prevails in the action shall be entitled to recover reasonable attorney's fees and costs of the action.

C.26:2H-155 Provision of health care services.

24. A person who operates a dementia care home on or after the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.) shall not provide health care services in that facility. Nothing in this section shall be construed to prohibit a licensed health care professional, who is acting within the scope of that person's license, from providing health care services to a resident of a dementia care home.

C.26:2H-156 Violations, penalties.

25. A person or entity found to be in violation of the provisions of P.L.2015, c.125 (C.55:13B-5.1 et al.), or any rules or regulations adopted by the commissioner pursuant thereto with respect to the operation of a dementia care home, shall be subject to a penalty as provided for in section 13 or 14 of P.L.1971, c.136 (C.26:2H-13 or 26:2H-14).

C.26:2H-157 Rules, regulations.

26. The commissioner and the Commissioner of Community Affairs, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioners deem necessary to effectuate the purposes of P.L.2015, c.125 (C.55:13B-5.1 et al.), which shall be effective for a period not to exceed 12 months following the effective date of P.L.2015, c.125. The regulations shall thereafter be amended, adopted, or readopted, in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.), as the commissioner or the Commissioner of Community Affairs determine necessary to effectuate the purposes of P.L.2015, c.125 (C.55:13B-5.1 et al.).

27. This act shall take effect on the first day of the seventh month next following the date of enactment, except that section 16 shall take effect immediately, but the Commissioners of Health and Community Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 9, 2015.