

## CHAPTER 294

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

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

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

C.26:2H-1 Declaration of public policy.

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

2. 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, that is 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.

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

#### C.26:2H-5.1g Regulations.

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

b. The regulations shall:

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

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

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

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

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

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

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

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

c. In developing the regulations, the commissioner shall:

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

(2) promote policies that:

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

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

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

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

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

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

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

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

Approved January 16, 2018.