

ASSEMBLY, No. 1102

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

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District 37 (Bergen)

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Co-Sponsored by:

Assemblymen Eustace, Diegnan, Assemblywoman Caride, Assemblyman Coughlin, Senators Madden and Pou

SYNOPSIS

Provides for licensure of dementia care homes by DOH.

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Senior Services Committee with technical review.

(Sponsorship Updated As Of: 6/30/2015)

1 AN ACT providing for the licensure of dementia care homes by the
2 Department of Health and amending and supplementing various
3 parts of the statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

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

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

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

33 b. "Health care service" means the preadmission, outpatient,
34 inpatient, and postdischarge care provided in or by a health care
35 facility, and such other items or services as are necessary for such
36 care, which are provided by or under the supervision of a physician
37 for the purpose of health maintenance organizations, diagnosis, or
38 treatment of human disease, pain, injury, disability, deformity, or
39 physical condition, including, but not limited to, nursing service,
40 home care nursing, and other paramedical service, ambulance
41 service, service provided by an intern, resident in training or
42 physician whose compensation is provided through agreement with
43 a health care facility, laboratory service, medical social service,
44 drugs, biologicals, supplies, appliances, equipment, bed and board,
45 but excluding services provided by a physician in his private

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 practice, except as provided in sections 7 and 12 of P.L.1971, c.136
2 (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by
3 prayer, and services provided by first aid, rescue and ambulance
4 squads as defined in the **["New Jersey Highway Safety Act of**
5 **1971," P.L.1971, c.351 (C.27:5F-1 et seq.)]** "New Jersey Highway
6 Traffic Safety Act of 1987," P.L.1987, c.284 (C.27:5F-18 et seq.).
- 7 c. "Construction" means the erection, building, or substantial
8 acquisition, alteration, reconstruction, improvement, renovation,
9 extension, or modification of a health care facility, including its
10 equipment, the inspection and supervision thereof; and the studies,
11 surveys, designs, plans, working drawings, specifications,
12 procedures, and other actions necessary thereto.
- 13 d. "Board" means the Health Care Administration Board
14 established pursuant to this act.
- 15 e. (Deleted by amendment, P.L.1998, c.43).
- 16 f. "Government agency" means a department, board, bureau,
17 division, office, agency, public benefit, or other corporation, or any
18 other unit, however described, of the State or political subdivision
19 thereof.
- 20 g. (Deleted by amendment, P.L.1991, c.187).
- 21 h. (Deleted by amendment, P.L.1991, c.187).
- 22 i. "Department" means the Department of Health.
- 23 j. "Commissioner" means the Commissioner of Health.
- 24 k. "Preliminary cost base" means that proportion of a hospital's
25 current cost which may reasonably be required to be reimbursed to
26 a properly utilized hospital for the efficient and effective delivery of
27 appropriate and necessary health care services of high quality
28 required by such hospital's mix of patients. The preliminary cost
29 base initially may include costs identified by the commissioner and
30 approved or adjusted by the commission as being in excess of that
31 proportion of a hospital's current costs identified above, which
32 excess costs shall be eliminated in a timely and reasonable manner
33 prior to certification of the revenue base. The preliminary cost base
34 shall be established in accordance with regulations proposed by the
35 commissioner and approved by the board.
- 36 l. (Deleted by amendment, P.L.1992, c.160).
- 37 m. "Provider of health care" means an individual (1) who is a
38 direct provider of health care service in that the individual's primary
39 activity is the provision of health care services to individuals or the
40 administration of health care facilities in which such care is
41 provided and, when required by State law, the individual has
42 received professional training in the provision of such services or in
43 such administration and is licensed or certified for such provision or
44 administration; or (2) who is an indirect provider of health care in
45 that the individual (a) holds a fiduciary position with, or has a
46 fiduciary interest in, any entity described in subparagraph b(ii) or
47 subparagraph b(iv); provided, however, that a member of the
48 governing body of a county or any elected official shall not be

1 deemed to be a provider of health care unless he is a member of the
2 board of trustees of a health care facility or a member of a board,
3 committee or body with authority similar to that of a board of
4 trustees, or unless he participates in the direct administration of a
5 health care facility; or (b) received, either directly or through his
6 spouse, more than one-tenth of his gross annual income for any one
7 or more of the following:

8 (i) Fees or other compensation for research into or instruction in
9 the provision of health care services;

10 (ii) Entities engaged in the provision of health care services or in
11 research or instruction in the provision of health care services;

12 (iii) Producing or supplying drugs or other articles for
13 individuals or entities for use in the provision of or in research into
14 or instruction in the provision of health care services;

15 (iv) Entities engaged in producing drugs or such other articles.

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

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

23 p. "State Health Planning Board" means the board established
24 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct
25 certificate of need review activities.
26 (cf: P.L.2012, c.17, s.153)

27

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

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

33 Community-based primary care centers;

34 Outpatient drug and alcohol services;

35 Hospital-based medical detoxification for drugs and alcohol;

36 Ambulance and invalid coach services;

37 Mental health services which are non-bed related outpatient
38 services;

39 Residential health care facility services;

40 Dementia care homes;

41 Capital improvements and renovations to health care facilities;

42 Additions of medical/surgical, adult intensive care and adult
43 critical care beds in hospitals;

44 Replacement of existing major moveable equipment;

45 Inpatient operating rooms;

46 Alternate family care programs;

47 Hospital-based subacute care;

48 Ambulatory care facilities;

1 Comprehensive outpatient rehabilitation services;
2 Special child health clinics;
3 New technology in accordance with the provisions of section 18
4 of P.L.1998, c.43 (C.26:2H-7d);
5 Transfer of ownership interest except in the case of an acute care
6 hospital;
7 Change of site for approved certificate of need within the same
8 county;
9 Additions to vehicles or hours of operation of a mobile intensive
10 care unit;
11 Relocation or replacement of a health care facility within the
12 same county, except for an acute care hospital;
13 Continuing care retirement communities authorized pursuant to
14 P.L.1986, c.103 (C.52:27D-330 et seq.);
15 Magnetic resonance imaging;
16 Adult day health care facilities;
17 Pediatric day health care facilities;
18 Chronic or acute renal dialysis facilities; and
19 Transfer of ownership of a hospital to an authority in accordance
20 with P.L.2006, c.46 (C.30:9-23.15 et al.).
21 (cf: P.L.2006, c.46, s.10)
22

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

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

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

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

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

37 b. The information made available to the public pursuant to
38 subsection a. of this section shall be provided in a manner that
39 would enable a member of the public to search the website by name
40 of a facility or its owner in order to access the information. The
41 department shall also make the information available in writing,
42 upon request.

43 c. The information regarding the ownership of a long-term care
44 or adult day health services facility that is made available to the
45 public pursuant to subsection a. of this section shall provide, at a
46 minimum: the name of the owner of a facility as listed on the
47 facility's license and, if there is more than one owner or the facility
48 is owned by a corporation, the name of each person who holds at

1 least a 10【%】 percent interest in the facility; the name of any other
2 licensed long-term care or adult day health services facility in the
3 State owned by this owner, corporation, and each person who holds
4 at least a 10【%】 percent interest in the facility, as applicable; and
5 the address and contact information for the facility.

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

12 (cf: P.L.2012, c.17, s.197)

13
14 4. Section 2 of P.L.1984, c.114 (C.26:2H-14.2) is amended to
15 read as follows:

16 2. a. Every nursing home as defined in section 2 of P.L.1976,
17 c. 120 (C. 30:13-2) or licensed pursuant to P.L.1971, c. 136 (C.
18 26:2H-1 et seq.), **【and】** every residential health care facility as
19 defined in section 1 of P.L.1953, c. 212 (C. 30:11A-1) or licensed
20 pursuant to P.L.1971, c. 136 (C. 26:2H-1 et seq.), and every
21 dementia care home as defined in section 17 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) shall establish by
23 written policy a heat emergency action plan which shall include
24 those procedures to be followed in the event of a heat emergency in
25 order to protect the health and welfare of its residents, and which
26 shall be approved by the department. The department shall review
27 a heat emergency action plan established pursuant to this act at
28 least once in each year.

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

32 (cf: P.L.1984, c.114, s.2)

33
34 5. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to
35 read as follows:

36 3. The Commissioner of Health shall, pursuant to the
37 provisions of the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.),₂ adopt rules and regulations necessary to
39 effectuate the purposes of this act. The regulations shall require
40 that:

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

1 residents for the purchase or installation of the fans or other
2 ventilating equipment.

3 (1) The regulations shall also provide that within two years after
4 the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), every
5 nursing home included within the provisions of this act, and every
6 residential health care facility as specified in this paragraph, shall
7 be equipped with air conditioning, except that the commissioner
8 may grant a nursing home or residential health care facility a waiver
9 from the air conditioning requirement to give the nursing home or
10 residential health care facility one additional year to comply with
11 the air conditioning requirement, for which waiver the nursing
12 home or residential health care facility shall apply on a form and in
13 a manner prescribed by the commissioner, if the nursing home or
14 residential health care facility can demonstrate to the satisfaction of
15 the commissioner that the failure to grant such a waiver would pose
16 a serious financial hardship to the nursing home or residential
17 health care facility. The air conditioning shall be operated so that
18 the temperature in all areas used by patients or residents does not
19 exceed 82 degrees Fahrenheit. The air conditioning requirement
20 established in this subsection shall apply to a residential health care
21 facility only: (1) upon enactment into law of legislation that
22 increases the rate of reimbursement provided by the State under the
23 Supplemental Security Income program, P.L.1973, c.256 (C.44:7-
24 85 et seq.), which rate is certified by the Commissioner of Health to
25 be sufficient to enable the facility to meet the costs of complying
26 with the requirement; and (2) if the facility qualifies for funds for
27 energy efficiency rehabilitation through the "Petroleum Overcharge
28 Reimbursement Fund," established pursuant to P.L.1987, c.231
29 (C.52:18A-209 et seq.), which funds can be applied towards
30 equipping the facility with air conditioning. A nursing home or
31 residential health care facility shall not directly assess patients or
32 residents for the purchase or installation of the air conditioning
33 equipment.

34 (2) The regulations shall also provide that within two years after
35 the effective date of P.L. , c. (C.) (pending before the
36 Legislature as this bill), every dementia care home shall be
37 equipped with air conditioning, except that the commissioner may
38 grant a dementia care home a waiver from the air conditioning
39 requirement to give the dementia care home one additional year to
40 comply with the air conditioning requirement, for which waiver the
41 dementia care home shall apply on a form and in a manner
42 prescribed by the commissioner, if the dementia care home can
43 demonstrate to the satisfaction of the commissioner that the failure
44 to grant such a waiver would pose a serious financial hardship to
45 that facility. The air conditioning shall be operated so that the
46 temperature in all areas used by residents does not exceed 82
47 degrees Fahrenheit. A dementia care home shall not directly assess

1 residents for the purchase or installation of the air conditioning
2 equipment; and

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

10 (cf: P.L.1989, c.173, s.1)

11
12 6. Section 2 of P.L.1989, c.173 (C.26:2H-14.4) is amended to
13 read as follows:

14 2. A nursing home or residential health care facility included
15 within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.)
16 which is constructed or expanded after the effective date of
17 P.L.1989, c.173 (C.26:2H-14.4 et al.), or a dementia care home
18 included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et
19 seq.) which is constructed or expanded after the effective date of
20 P.L. , c. (C.) (pending before the Legislature as this bill), shall
21 be equipped with air conditioning in all areas used by patients or
22 residents, and the air conditioning shall be operated so that the
23 temperature in these areas does not exceed 82 degrees Fahrenheit.

24 (cf: P.L.1989, c.173, s.2)

25
26 7. Section 2 of P.L.1977, c.238 (C.26:2H-37) is amended to
27 read as follows:

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

30 a. "Boarding or nursing home" or "home" means: a private
31 nursing home or convalescent home regulated under chapter 11 of
32 Title 30 of the Revised Statutes **【or】**; a facility or institution,
33 private or public, regulated and licensed as an extended care
34 facility, skilled nursing home, nursing home, or intermediate care
35 facility pursuant to P.L.1971, c. 136 (C. 26:2H-1 to 26:2H-26) **【or】**;
36 a residential health care facility, as defined in section 1 of P.L.1953,
37 c. 212 (C. 30:11A-1) or licensed pursuant to P.L.1971, c. 136 (C.
38 26:2H-1 to 26:2H-26); or a dementia care home as defined in
39 section 17 of P.L. , c. (C.) (pending before the Legislature as
40 this bill).

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

43 c. "Licensee" means the holder or holders of a license to
44 operate a boarding or nursing home pursuant to chapter 11 of Title
45 30 of the Revised Statutes, P.L.1953, c. 212 (C. 30:11A-1 to
46 30:11A-14) or P.L.1971, c. 136 (C. 26:2H-1 to 26:2H-26).

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

48 (cf: P.L.1979, c.496, s.24)

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

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

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

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

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

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

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

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

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

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

34 "Health care institution" means all institutions, facilities, and
35 agencies licensed, certified, or otherwise authorized by State law to
36 administer health care in the ordinary course of business, including
37 hospitals, nursing homes, residential health care facilities, dementia
38 care homes, home health care agencies, hospice programs operating
39 in this State, mental health institutions, facilities or agencies, or
40 institutions, facilities, and agencies for the developmentally
41 disabled. The term "health care institution" shall not be construed
42 to include "health care professionals" as defined in P.L.1991, c.201.

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

46 "Health care representative" means the individual designated by
47 a declarant pursuant to the proxy directive part of an advance
48 directive for the purpose of making health care decisions on the

1 declarant's behalf, and includes an individual designated as an
2 alternate health care representative who is acting as the declarant's
3 health care representative in accordance with the terms and order of
4 priority stated in an advance directive.

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

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

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

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

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

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

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

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

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

39 (cf: P.L.2013, c.103, s.64)

40

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

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

47 "Community residence for the developmentally disabled" means
48 any community residential facility housing up to 16 persons with

1 developmental disabilities, which provides food, shelter, and
2 personal guidance for persons with developmental disabilities who
3 require assistance, temporarily or permanently, in order to live
4 independently in the community. Such residences shall not be
5 considered health care facilities within the meaning of the "Health
6 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.)
7 and shall include, but not be limited to, group homes, halfway
8 houses, supervised apartment living arrangements, and hostels.

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

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

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

43 "Developmental disability" or "developmentally disabled" means
44 a severe, chronic disability of a person which: a. is attributable to a
45 mental or physical impairment or combination of mental or physical
46 impairments; b. is manifest before age 22; c. is likely to continue
47 indefinitely; d. results in substantial functional limitations in three
48 or more of the following areas of major life activity, that is, self-

1 care, receptive and expressive language, learning, mobility, self-
2 direction and capacity for independent living, or economic self-
3 sufficiency; and e. reflects the need for a combination and sequence
4 of special interdisciplinary or generic care, treatment, or other
5 services which are of lifelong or extended duration and are
6 individually planned and coordinated. Developmental disability
7 includes, but is not limited to, severe disabilities attributable to an
8 intellectual disability, autism, cerebral palsy, epilepsy, spina bifida,
9 and other neurological impairments where the above criteria are
10 met.

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

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

21 (cf: P.L.2012, c.16, s.125)

22

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

25 2. As used in this act:

26 a. "Community residence for the developmentally disabled"
27 means any community residential facility licensed pursuant to
28 P.L.1977, c.448 (C.30:11B-1 et seq.) providing food, shelter, and
29 personal guidance, under such supervision as required, to not more
30 than 15 developmentally disabled or mentally ill persons, who
31 require assistance, temporarily or permanently, in order to live in
32 the community, and shall include, but not be limited to: group
33 homes, halfway houses, intermediate care facilities, supervised
34 apartment living arrangements, and hostels. Such a residence shall
35 not be considered a health care facility within the meaning of the
36 "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1
37 et al.). In the case of such a community residence housing mentally
38 ill persons, such residence shall have been approved for a purchase
39 of service contract or an affiliation agreement pursuant to such
40 procedures as shall be established by regulation of the Division of
41 Mental Health and **【Hospitals of】** Addiction Services in the
42 Department of Human Services. As used in this act,
43 "developmentally disabled person" means a person who is
44 developmentally disabled as defined in section 2 of P.L.1977, c.448
45 (C.30:11B-2), and "mentally ill person" means a person who is
46 afflicted with a mental illness as defined in **【R.S.30:4-23】** section
47 30 of P.L.1987, c.116 (C.30:4-27.2), but shall not include a person
48 who has been committed after having been found not guilty of a

1 criminal offense by reason of insanity or having been found unfit to
2 be tried on a criminal charge.

3 b. "Community shelter for victims of domestic violence" means
4 any shelter approved for a purchase of service contract and certified
5 pursuant to standards and procedures established by regulation of
6 the Department of Human Services pursuant to P.L.1979, c.337
7 (C.30:14-1 et seq.), providing food, shelter, medical care, legal
8 assistance, personal guidance, and other services to not more than
9 15 persons who have been victims of domestic violence, including
10 any children of such victims, who temporarily require shelter and
11 assistance in order to protect their physical or psychological
12 welfare.

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

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

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

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

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

45 (cf: P.L.1997, c.321, s.2)

46
47 11. Section 2 of P.L.1977, c.239 (C.52:27G-2) is amended to
48 read as follows:

- 1 2. As used in this act, unless the context clearly indicates
2 otherwise:
- 3 a. "Abuse" means the willful infliction of physical pain, injury,
4 or mental anguish; unreasonable confinement; or the willful
5 deprivation of services which are necessary to maintain a person's
6 physical and mental health. However, no person shall be deemed to
7 be abused for the sole reason he is being furnished nonmedical
8 remedial treatment by spiritual means through prayer alone, in
9 accordance with a recognized religious method of healing, in lieu of
10 medical treatment;
- 11 b. An "act" of any facility or government agency shall be
12 deemed to include any failure or refusal to act by such facility or
13 government agency;
- 14 c. "Administrator" means any person who is charged with the
15 general administration or supervision of a facility, whether or not
16 such person has an ownership interest in such facility, and whether
17 or not such person's functions and duties are shared with one or
18 more other persons;
- 19 d. "Caretaker" means a person employed by a facility to
20 provide care or services to an elderly person, and includes, but is
21 not limited to, the administrator of a facility;
- 22 e. "Exploitation" means the act or process of using a person or
23 his resources for another person's profit or advantage without legal
24 entitlement to do so;
- 25 f. "Facility" means any facility or institution, whether public or
26 private, offering health or health related services for the
27 institutionalized elderly, and which is subject to regulation,
28 visitation, inspection, or supervision by any government agency.
29 Facilities include, but are not limited to, nursing homes, skilled
30 nursing homes, intermediate care facilities, extended care facilities,
31 convalescent homes, rehabilitation centers, residential health care
32 facilities, dementia care homes, special hospitals, veterans'
33 hospitals, chronic disease hospitals, psychiatric hospitals, mental
34 hospitals, developmental centers or facilities, continuing care
35 retirement communities, including independent living sections
36 thereof, day care facilities for the elderly and medical day care
37 centers;
- 38 g. "Government agency" means any department, division,
39 office, bureau, board, commission, authority, or any other agency or
40 instrumentality created by the State or to which the State is a party,
41 or by any county or municipality, which is responsible for the
42 regulation, visitation, inspection, or supervision of facilities, or
43 which provides services to patients, residents, or clients of
44 facilities;
- 45 h. "Guardian" means any person with the legal right to manage
46 the financial affairs and protect the rights of any patient, resident, or
47 client of a facility, who has been declared an incapacitated person
48 by a court of competent jurisdiction;

- 1 i. "Institutionalized elderly," "elderly" or "elderly person"
- 2 means any person 60 years of age or older, who is a patient,
- 3 resident, or client of any facility;
- 4 j. "Office" means the Office of the Ombudsman for the
- 5 Institutionalized Elderly established herein;
- 6 k. "Ombudsman" means the administrator and chief executive
- 7 officer of the Office of the Ombudsman for the Institutionalized
- 8 Elderly;
- 9 l. "Patient, resident or client" means any elderly person who is
- 10 receiving treatment or care in any facility in all its aspects,
- 11 including, but not limited to, admission, retention, confinement,
- 12 commitment, period of residence, transfer, discharge, and any
- 13 instances directly related to such status.
- 14 (cf: P.L.2013, c.167, s.10)

15

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

18 3. As used in this act:

- 19 a. "Boarding house" means any building, together with any
- 20 related structure, accessory building, any land appurtenant thereto,
- 21 and any part thereof, which contains two or more units of dwelling
- 22 space arranged or intended for single room occupancy, exclusive of
- 23 any such unit occupied by an owner or operator, and wherein
- 24 personal or financial services are provided to the residents,
- 25 including any residential hotel or congregate living arrangement,
- 26 but excluding any hotel, motel, or established guest house wherein a
- 27 minimum of 85【%】 percent of the units of dwelling space are
- 28 offered for limited tenure only, any resource family home as
- 29 defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1), any
- 30 community residence for the developmentally disabled and any
- 31 community residence for the mentally ill as defined in section 2 of
- 32 P.L.1977, c.448 (C.30:11B-2), any adult family care home as
- 33 defined in section 3 of P.L.2001, c.304 (C.26:2Y-3), any dormitory
- 34 owned or operated on behalf of any nonprofit institution of primary,
- 35 secondary, or higher education for the use of its students, any
- 36 building arranged for single room occupancy wherein the units of
- 37 dwelling space are occupied exclusively by students enrolled in a
- 38 full-time course of study at an institution of higher education
- 39 approved by the New Jersey Commission on Higher Education, any
- 40 facility or living arrangement operated by, or under contract with,
- 41 any State department or agency, upon the written authorization of
- 42 the commissioner, and any owner-occupied, one-family residential
- 43 dwelling made available for occupancy by not more than six guests,
- 44 where the primary purpose of the occupancy is to provide charitable
- 45 assistance to the guests and where the owner derives no income
- 46 from the occupancy. A dwelling shall be deemed "owner-occupied"
- 47 within the meaning of this section if it is owned or operated by a
- 48 nonprofit religious or charitable association or corporation and is

- 1 used as the principal residence of a minister or employee of that
- 2 corporation or association. For any such dwelling, however, fire
- 3 detectors shall be required as determined by the Department of
- 4 Community Affairs.
- 5 b. "Commissioner" means the Commissioner of the Department
- 6 of Community Affairs.
- 7 c. "Financial services" means any assistance permitted or
- 8 required by the commissioner to be furnished by an owner or
- 9 operator to a resident in the management of personal financial
- 10 matters, including, but not limited to, the cashing of checks, holding
- 11 of personal funds for safekeeping in any manner or assistance in the
- 12 purchase of goods or services with a resident's personal funds.
- 13 d. "Limited tenure" means residence at a rooming or boarding
- 14 house on a temporary basis, for a period lasting no more than 90
- 15 days, when a resident either maintains a primary residence at a
- 16 location other than the rooming or boarding house or intends to
- 17 establish a primary residence at such a location and does so within
- 18 90 days after taking up original residence at the rooming or
- 19 boarding house.
- 20 e. "Operator" means any individual who is responsible for the
- 21 daily operation of a rooming or boarding house.
- 22 f. "Owner" means any person who owns, purports to own, or
- 23 exercises control of any rooming or boarding house.
- 24 g. "Personal services" means any services permitted or required
- 25 to be furnished by an owner or operator to a resident, other than
- 26 shelter, including, but not limited to, meals or other food services,
- 27 and assistance in dressing, bathing, or attending to other personal
- 28 needs.
- 29 h. "Rooming house" means a boarding house wherein no
- 30 personal or financial services are provided to the residents.
- 31 i. "Single room occupancy" means an arrangement of dwelling
- 32 space which does not provide a private, secure dwelling space
- 33 arranged for independent living, which contains both the sanitary
- 34 and cooking facilities required in dwelling spaces pursuant to the
- 35 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et
- 36 seq.), and which is not used for limited tenure occupancy in a hotel,
- 37 motel, or established guest house, regardless of the number of
- 38 individuals occupying any room or rooms.
- 39 j. "Unit of dwelling space" means any room, rooms, suite, or
- 40 portion thereof, whether furnished or unfurnished, which is
- 41 occupied or intended, arranged, or designed to be occupied for
- 42 sleeping or dwelling purposes by one or more persons.
- 43 k. **["Alzheimer's disease and related disorders"** means a form
- 44 of dementia characterized by a general loss of intellectual abilities
- 45 of sufficient severity to interfere with social or occupational
- 46 functioning.] (Deleted by amendment, P.L. , c. (pending before
- 47 the Legislature as this bill)

1 1. **["Dementia"** means a chronic or persistent disorder of the
2 mental processes due to organic brain disease, for which no curative
3 treatment is available, and marked by memory disorders, changes in
4 personality, deterioration in personal care, impaired reasoning
5 ability and disorientation.**"]** (Deleted by amendment, P.L. ____, c.
6 (pending before the Legislature as this bill)
7 (cf: P.L.2004, c.130, s.123)

8
9 13. Section 6 of P.L.1979, c.496 (C.55:13B-6) is amended to
10 read as follows:

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

- 17 a. Safety from fire;
18 b. Safety from structural, mechanical, plumbing, and electrical
19 deficiencies;
20 c. Adequate light and ventilation;
21 d. Physical security;
22 e. Protection from harassment, fraud, and eviction without due
23 cause;
24 f. Clean and reasonably comfortable surroundings;
25 g. Adequate personal and financial services rendered in
26 boarding houses;
27 h. Disclosure of owner identification information;
28 i. Maintenance of orderly and sufficient financial and
29 occupancy records;
30 j. Referral of residents, by the operator, to social service and
31 health agencies for needed services;
32 k. Assurance that no constitutional, civil, or legal right will be
33 denied solely by reason of residence in a rooming or boarding
34 house;

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

38 m. Opportunity for each resident to live with as much
39 independence, autonomy, and interaction with the surrounding
40 community as **[he]** the resident is capable of **[/; and]** doing.

41 n. **[Assurance that the needs of residents with special needs,**
42 including, but not limited to, persons with Alzheimer's disease and
43 related disorders or other forms of dementia, will be met in
44 accordance with standards adopted by regulation of the
45 commissioner, which shall be promulgated no later than 90 days
46 after the effective date of this act, which shall include, at a
47 minimum, the following:

- 48 (1) staffing levels;

- 1 (2) staff qualifications and training;
- 2 (3) special dietary needs of residents;
- 3 (4) special supervision requirements relating to the individual
- 4 needs of residents;
- 5 (5) building safety requirements appropriate to the needs of
- 6 residents;
- 7 (6) special health monitoring of residents by qualified, licensed
- 8 health care professionals, including a requirement that a medical
- 9 assessment be performed on a resident with special needs as
- 10 described in this subsection, as determined necessary by the
- 11 commissioner, prior to admission and on a quarterly basis thereafter
- 12 to ensure that the facility is appropriate to the needs of the resident;
- 13 and
- 14 (7) criteria for discharging residents which shall be set forth in
- 15 the admission agreement which shall be provided to the resident or
- 16 the resident's representative prior to or upon admission. The
- 17 commissioner may revoke the license of any provider who violates
- 18 the criteria for discharging residents.】 (Deleted by amendment, P.L.
- 19 c. (pending before the Legislature as this bill)
- 20 (cf: P.L.1997, c.260, s.2)

21
22 14. Section 7 of P.L.1979, c.496 (C.55:13B-7) is amended to
23 read as follows:

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

32 (2) 【No person shall own or operate a rooming or boarding
33 house that offers or advertises or holds itself out as offering
34 personal care services to residents with special needs, including, but
35 not limited to, persons with Alzheimer's disease and related
36 disorders or other forms of dementia, hold out a building as
37 available for rooming or boarding house occupancy for such
38 residents, or apply for any necessary construction or planning
39 approvals related to the establishment of a rooming or boarding
40 house for such residents without a valid license to own or operate
41 such a facility, issued by the commissioner.】 (Deleted by
42 amendment, P.L. , c. (pending before the Legislature as this bill)

43 (3) Any person found to be in violation of this subsection shall
44 be liable for a civil penalty of not more than 【\$5,000.00】 \$5,000 for
45 each building so owned or operated, which penalty shall be payable
46 to the appropriate licensing entity.

47 b. The commissioner shall establish separate categories of
48 licensure for owning and for operating a rooming or boarding

1 house, provided, however, that an owner who himself operates such
2 a facility need not also possess an operator's license.

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

8 Each application for licensure shall contain such information as
9 the commissioner may prescribe and, unless the person is licensed
10 by a municipality to own or operate a rooming and boarding house
11 pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), shall be
12 accompanied by a fee established by the commissioner which shall
13 not be less than ~~[\$150.00]~~ \$150 or more than ~~[\$600.00]~~ \$600,
14 except as provided in subsection e. of this section. If, upon receipt
15 of the fee and a review of the application, the commissioner
16 determines that the applicant will operate, or provide for the
17 operation of, a rooming or boarding house in accordance with the
18 provisions of this act, ~~[he]~~ the commissioner shall issue a license to
19 ~~[him]~~ the applicant.

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

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

32 d. A person making application for, or who has been issued, a
33 license to own or operate a rooming or boarding house who
34 conceals the fact that the person has been denied a license to own or
35 operate a residential facility, or that the person's license to own or
36 operate a residential facility has been revoked by a department or
37 agency of state government in this or any other state is liable for a
38 civil penalty of not more than ~~[\$5,000.00]~~ \$5,000, and any license
39 to own or operate a rooming or boarding house which has been
40 issued to that person shall be immediately revoked.

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

1 cover the cost of such administration and enforcement.
2 (cf: P.L.2007, c.339, s.1)

3
4 15. (New section) a. The Department of Community Affairs
5 shall cease its responsibilities for licensure, inspections, and the
6 establishment and enforcement of standards with respect to each
7 rooming or boarding house that provides services to residents with
8 special needs, including, but not limited to, persons with
9 Alzheimer's disease and related disorders or other forms of
10 dementia, as of the date that the Department of Health assumes
11 these responsibilities pursuant to section 18 of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

13 b. The Department of Community Affairs shall establish and
14 enter into an inter-agency agreement with the Department of Health
15 as necessary for the purposes of this section and section 18 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill).

17
18 16. (New section) The Department of Community Affairs shall
19 not issue a license to any person to own or operate a new rooming
20 or boarding house that provides services to residents with special
21 needs, including, but not limited to, persons with Alzheimer's
22 disease and related disorders or other forms of dementia, on or after
23 the date of enactment of P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25
26 17. (New section) As used in sections 18 through 26 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill):

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

32 "Commissioner" means the Commissioner of Health.

33 "Department" means the Department of Health.

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

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

1 18. (New section) a. (1) Notwithstanding any law, rule, or
2 regulation to the contrary, commencing on or after the effective date
3 of P.L. , c. (C.) (pending before the Legislature as this bill)
4 and subject to the provisions of subsection b. of this section, the
5 Department of Health shall be responsible for licensure,
6 inspections, and the establishment and enforcement of standards
7 with respect to each community residential facility in the State that
8 provides services to residents with special needs, including, but not
9 limited to, persons with Alzheimer's disease and related disorders or
10 other forms of dementia, which shall be thereafter known as a
11 dementia care home.

12 (2) The department shall be empowered to exercise such
13 authority with respect to a dementia care home as the department is
14 granted with respect to any other health care facility licensed by the
15 department, pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and
16 any rules and regulations adopted pursuant thereto, and in
17 accordance with the provisions of P.L. , c. (C.) (pending
18 before the Legislature as this bill).

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

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

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

37 d. A dementia care home that is operating as a rooming or
38 boarding house that provides services to residents with special
39 needs, including, but not limited to, persons with Alzheimer's
40 disease and related disorders or other forms of dementia, on the
41 effective date of P.L. , c. (C.) (pending before the Legislature
42 as this bill) shall be granted provisional licensure by the department
43 for a period of one year following the effective date. At the end of
44 that period, the department shall issue a license to the facility
45 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or make continued
46 licensure subject to such actions by the facility as the commissioner
47 determines necessary to effectuate the purposes of P.L.1971, c.136
48 and P.L. , c. (C.) (pending before the Legislature as this bill).

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

24 b. A resident of a dementia care home shall be a person with
25 special needs, including, but not limited to, persons with
26 Alzheimer's disease and related disorders or other forms of
27 dementia, as prescribed by regulation of the commissioner, who is:
28 18 years of age or older; ambulant with or without assistive devices;
29 certified by a licensed physician to be free from communicable
30 disease and not in need of skilled nursing care; and, except in the
31 case of a person 65 years of age or over, in need of dietary services,
32 supervision of self-administration of medications, supervision of
33 and assistance in activities of daily living, or assistance in obtaining
34 health care services. A resident of a dementia care home shall not
35 be given skilled nursing care while a resident, except that the
36 provisions of this subsection shall not be construed to prevent: care
37 of residents in emergencies or during temporary illness for a period
38 of one week or less; or a licensed physician from ordering nursing
39 or other health care services for the resident.

40
41 20. (New section) a. (1) A person shall not operate a dementia
42 care home, or offer, advertise, or hold out a facility as a dementia
43 care home, hold out a building as available for occupancy by
44 dementia care home residents, or apply for any necessary
45 construction or planning approvals related to the establishment of a
46 dementia care home, without a valid license having been issued by
47 the department for the operation of that facility in accordance with

1 the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.) and P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

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

6 (3) A person found to be in violation of paragraph (1) or (2) of
7 this subsection shall be liable for a civil penalty for each building so
8 operated in accordance with the provisions of section 25 of
9 P.L. , c. (C.) (pending before the Legislature as this bill).

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

15
16 21. (New section) The commissioner shall establish standards to
17 ensure that each dementia care home is constructed and operated in
18 such a manner as will protect the health, safety, and welfare of its
19 residents and at the same time preserve and promote a homelike
20 atmosphere appropriate to these facilities, including, but not limited
21 to, standards to provide for the following:

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

1 (1) staffing levels, which shall ensure that the ratio of direct care
2 staff to residents in the facility is equal to or higher than that which
3 existed on the date of enactment of P.L. , c. (C.) (pending
4 before the Legislature as this bill);

5 (2) staff qualifications and training;

6 (3) special dietary needs of residents;

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

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

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

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

26

27 22. (New section) a. Notwithstanding the provisions of any
28 other law or regulation to the contrary, the commissioner may grant,
29 to a dementia care home that is operating as a rooming or boarding
30 house that provides services to residents with special needs,
31 including, but not limited to, persons with Alzheimer's disease and
32 related disorders or other forms of dementia, on the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill), a
34 temporary or permanent waiver of one or more requirements
35 established by regulation of the commissioner for health care
36 facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
37 that the commissioner has determined are otherwise applicable to
38 the dementia care home, if the dementia care home can demonstrate
39 to the satisfaction of the commissioner that:

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

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

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

- 1 23. (New section) a. Every resident of a dementia care home
- 2 facility shall have the right:
- 3 (1) To manage the resident's own financial affairs;
- 4 (2) To wear the resident's own clothing;
- 5 (3) To determine the resident's own dress, hair style, or other
- 6 personal effects according to individual preference;
- 7 (4) To retain and use the resident's personal property in the
- 8 resident's immediate living quarters, so as to maintain individuality
- 9 and personal dignity, except where the facility can demonstrate that
- 10 it would be unsafe, impractical to do so, or infringe upon the rights
- 11 of others, and that mere convenience is not the facility's motive to
- 12 restrict this right;
- 13 (5) To receive and send unopened correspondence;
- 14 (6) To unaccompanied access to a telephone at a reasonable
- 15 hour and to a private phone at the resident's expense;
- 16 (7) To privacy;
- 17 (8) To retain the services of the resident's own personal
- 18 physician at the resident's own expense or under a health care plan
- 19 and to confidentiality and privacy concerning the resident's medical
- 20 condition and treatment;
- 21 (9) To unrestricted communication, including personal visitation
- 22 with any person of the resident's choice, at any reasonable hour;
- 23 (10) To make contacts with the community and to achieve the
- 24 highest level of independence, autonomy, and interaction with the
- 25 community of which the resident is capable;
- 26 (11) To present grievances on behalf of the resident or others to
- 27 the operator, State governmental agencies, or other persons without
- 28 threat of reprisal in any form or manner;
- 29 (12) To a safe and decent living environment and considerate
- 30 and respectful care that recognizes the dignity and individuality of
- 31 the resident;
- 32 (13) To refuse to perform services for the facility, except as
- 33 contracted for by the resident and the operator;
- 34 (14) To practice the religion of the resident's choice, or to
- 35 abstain from religious practice; and
- 36 (15) To not be deprived of any constitutional, civil, or legal
- 37 right solely by reason of residence in a dementia care home.
- 38 b. The operator of a dementia care home shall ensure that a
- 39 written notice of the rights set forth in subsection a. of this section
- 40 is given to every resident upon admittance to the facility and to each
- 41 resident upon request. The operator shall also post this notice in a
- 42 conspicuous public place in the facility. This notice shall include
- 43 the name, address, and telephone numbers of the Office of the
- 44 Ombudsman for the Institutionalized Elderly, county welfare
- 45 agency, and county office on aging.
- 46 c. A person or resident whose rights as set forth in subsection
- 47 a. of this section are violated shall have a cause of action against
- 48 any person committing the violation. The action may be brought in

1 any court of competent jurisdiction to enforce those rights and to
2 recover actual and punitive damages for their violation. A plaintiff
3 who prevails in the action shall be entitled to recover reasonable
4 attorney's fees and costs of the action.

5
6 24. (New section) A person who operates a dementia care home
7 on or after the effective date of P.L. , c. (C.) (pending before
8 the Legislature as this bill) shall not provide health care services in
9 that facility. Nothing in this section shall be construed to prohibit a
10 licensed health care professional, who is acting within the scope of
11 that person's license, from providing health care services to a
12 resident of a dementia care home.

13
14 25. (New section) A person or entity found to be in violation of
15 the provisions of P.L. , c. (C.) (pending before the
16 Legislature as this bill), or any rules or regulations adopted by the
17 commissioner pursuant thereto with respect to the operation of a
18 dementia care home, shall be subject to a penalty as provided for in
19 sections 13 or 14 of P.L.1971, c.136 (C.26:2H-13 or 26:2H-14).

20
21 26. (New section) The commissioner and the Commissioner of
22 Community Affairs, pursuant to the "Administrative Procedure
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt,
24 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et
25 seq.) to the contrary, immediately upon filing with the Office of
26 Administrative Law, such rules and regulations as the
27 commissioners deem necessary to effectuate the purposes of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), which
29 shall be effective for a period not to exceed 12 months following
30 the effective date of P.L. , c. . The regulations shall thereafter be
31 amended, adopted, or readopted, in accordance with the provisions
32 of P.L.1968, c.410 (C.52:14B-1 et seq.), as the commissioner or the
33 Commissioner of Community Affairs determine necessary to
34 effectuate the purposes of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36
37 27. This act shall take effect on the first day of the seventh
38 month next following the date of enactment, except that section 16
39 shall take effect immediately, but the Commissioners of Health and
40 Community Affairs may take such anticipatory administrative
41 action in advance thereof as shall be necessary for the
42 implementation of this act.