

3

S P E C I A L N O T E

THE ATTACHED AMENDED LEGISLATION REPLACES
APPENDIX B, PAGES 37 to 43, OF THE MANUAL
OF STANDARDS FOR PRIVATE HOSPITALS. THIS
SHOULD BE REVIEWED MOST CAREFULLY SINCE IT
CONTAINS IMPORTANT CHANGES.

THIS NEW LEGISLATION BECAME EFFECTIVE JULY 31, 1964.

State of New Jersey
Department of Institutions
and Agencies
Trenton

AN ACT REQUIRING THE LICENSING, INSPECTION AND REGULATION OF PRIVATE MENTAL HOSPITALS, CONVALESCENT HOMES, PRIVATE NURSING HOMES AND PRIVATE HOSPITALS, CREATING A HOSPITAL LICENSING BOARD, PROVIDING FOR REGULATIONS, ENFORCEMENT PROCEDURES, AND PENALTIES FOR THE VIOLATION THEREOF. (Amended July 31, 1964)

30:11-1 LICENSE REQUIRED; APPLICATION; RULES AND REGULATIONS;
PUBLIC POLICY

It is declared to be the public policy of this State to provide for the development, establishment and enforcement of basic standards for the care and treatment of individuals in private mental hospitals, convalescent homes, private nursing homes and private hospitals as defined herein and for the construction, maintenance and operation of such institutions in such a manner as to insure safe and adequate treatment of all such individuals in said private mental hospitals, convalescent homes, private nursing homes and private hospitals. No private nursing home, private mental hospital, convalescent home or private hospital for the care, treatment, or nursing of persons mentally ill, mentally deficient or mentally retarded, acutely or chronically ill, or who are crippled, convalescent, infirm or in any way afflicted, and who are in need of medical and nursing care on a continuing basis shall operate within this State except upon license first had and obtained for that purpose from the department, upon application made therefor as hereinafter provided. No such license shall be granted by the department, unless the commissioner shall be satisfied that the institution, facility or establishment in question is adequately prepared to furnish the care and service to be provided by it. No license shall be granted to a hospital facility unless the commissioner is satisfied that it is adequately prepared to provide all services and care required by the residents of the community wherein it is located. Nothing herein contained shall be so construed as to interfere with the powers of the State Board of Medical Examiners to license medical practitioners in New Jersey.

Application for the license required by this chapter shall be made upon forms furnished by the department, shall set forth the location of the home or hospital, the person in charge thereof, and the facilities for caring for persons who may seek treatment therein. The applicant shall be required to furnish evidence of its ability to comply with minimum standards of medical and nursing care, financial ability to successfully operate the institution for which the license is sought, and of the good moral character of the person in charge thereof.

30:11-1.1

Except as to persons presently licensed, no license shall be issued to a natural person unless he is a citizen of the United States and a resident of the State of New Jersey at the time of the submission of the application. No license shall be issued to any person under the age of 21 years; to any person who has been convicted of a crime involving moral turpitude; or to any person who has been twice found guilty of violating the provisions of this chapter by a court of competent jurisdiction or who has admitted such guilt.

30:11-1.2

No license shall be issued to any corporation not presently licensed unless each legal or equitable owner of more than 10% of its stock qualifies in all respects as an individual applicant. In applications by corporations, the names and addresses of, and the amount of stock held by, all stockholders holding one or more percent of any of the stock thereof, and the names and addresses of all officers and of all members of the board of directors must be stated in the application. If one or more of such officers or members of the board of directors would fail to qualify as an individual applicant in all respects, no license shall be granted, until such persons so disqualified shall be qualified.

30:11-1.3

In applications by partnerships, the applications shall contain the names and addresses of all of the partners. No license shall be issued unless all of the partners would qualify as individual applicants or until such disqualification is removed.

30:11-1.4

Upon receipt of an application for license, the Department of Institutions and Agencies shall cause an investigation to be made of the applicant and the proposed facilities and shall issue a license if it is found that said applicant is of good moral character and facilities comply with the provisions of this chapter, the regulations of the department and the minimum standards established for the operation of a private mental hospital, convalescent home, private nursing home or private hospital. The department may in its discretion, for good cause, issue a temporary permit to operate or a provisional or probationary license for a stated period of time pending full compliance by the licensee with rules and regulations establishing minimum standards of operation.

The license shall not be transferable or assignable except with the written approval of the department and shall be posted in a conspicuous place on the licensed premises as prescribed by the regulations of the department.

30:11-1.5

Whenever any change shall occur in the facts as set forth in any application for a license, the licensee shall file with the commissioner, a notice in writing of such change within 10 days after the occurrence thereof. No notice need be given by corporate licensees of changes in stock holdings therein unless and until the aggregate of such changes, if made before the time of said application, would have prevented the issuance of the license.

Applicants shall answer such questions as may be asked concerning their character, financial ability, residence, citizenship and ability to operate a nursing home or hospital and make such declarations as shall be required. All applicants may be duly sworn and all statements and applications shall be deemed material. Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for denial, suspension or revocation of the license.

30:11-1.6

Nothing in this chapter shall be construed to require a licensee holding a license at the time this act is approved, as a condition precedent to obtaining a renewal of such license, to make structural changes, other than maintenance and repairs, to the licensed facility or to increase or decrease the bed capacity thereof; nor to require a purchaser of such nursing home licensed at the time this act shall be approved, as a condition precedent to obtaining a license, to make such structural changes, other than maintenance and repairs, to said licensed facility or to increase or decrease the bed capacity thereof.

30:11-1.7

The State Board of Control of the Department of Institutions and Agencies, with the advice of the hospital licensing board, shall adopt, amend, promulgate and enforce such rules, regulations, and minimum standards of nursing and hospital care with respect to the different types of hospitals, convalescent homes and nursing homes to be licensed hereunder as may be reasonably necessary to accomplish the purposes of this chapter and to assure that patients resident in the institutions described herein shall receive medical and nursing care consistent with accepted practices and procedures

for administering such medical and nursing care in physical surroundings and under circumstances conducive to the recovery and convalescence of all patients in such institution. Such rules, regulations and minimum standards may include, but shall not be limited to, the regulation of medical and nursing care, extent of furnishing same, sanitation, dietetics, except where the diet has been prescribed by a licensed physician, heat, light, air, fire prevention and control, space allocation for patient care, housing and recreation facilities and related matters dealing with patient care and comfort and when adopted shall be binding upon all licensees and applicants for license under this chapter.

30:11-1.8

Copies of proposed rules, regulations or minimum standards shall be mailed by certified mail to such persons who have filed with the department a written request for such proposed rules, regulations or minimum standards. Except in the case of an emergency, no rule, regulation or minimum standard shall be adopted until copies of said proposed rule, regulation or minimum standard shall be mailed to those persons who have requested them together with a notice of the time and place of a hearing to be had on such proposed rule, regulation or minimum standard.

No hearing so held shall be held earlier than 30 days after the mailing of such proposed rule, regulation or minimum standard and notice of hearing.

30:11-1.9

Any private hospital, convalescent home, private mental hospital, or private nursing home which is in operation at the time of promulgation of any applicable rules or regulations or minimum standards under this act shall be given a reasonable time, not to exceed 2 years from the date of such promulgation, within which to comply with such rules and regulations and minimum standards, or subsequent amendments or supplements thereto.

30:11-2 DURATION OF LICENSE; FEE FOR ISSUE OR RENEWAL

A license to operate a private mental hospital, private nursing home or private hospital shall be valid for 1 year from date of issue, and, upon issuance or renewal of such license, the commissioner shall collect, respectively, a fee of \$25.00, which shall be paid into the General State Fund and the cost of administration of this chapter shall be provided for in the annual appropriation law.

30:11-3 REVOCATION OR SUSPENSION OF LICENSE; HEARING

The State Board of Control, after serving the licensee with specific charges in writing at least 30 days in advance of the hearing, and after hearing, may deny, place on probationary or provisional license, revoke or suspend any and all licenses granted under authority of this chapter to any person, firm, partnership, corporation or association violating the provisions of this chapter, or the rules and regulations promulgated hereunder.

Prior to the revocation, suspension or denial or placing on probationary or provisional license of any license hereunder, the department shall afford the licensee an opportunity for a prompt and fair hearing before the department on the question of the issuance, suspension or the placing on a probationary or provisional license, or revocation of the license. The procedure governing such hearings shall be in accordance with the rules and regulations of the department adopted by and with the consent of the hospital licensing board. Either party may be represented by counsel of his own choosing, subpoena witnesses and compel their attendance on forms furnished by the department.

Notice of revocation, suspension, the placing on probationary or provisional license or denial of a license together with a specification of charges shall be sent to the applicant or licensee by registered mail and the notice shall set forth the particular reasons for the denial, suspension, the placing on probationary or provisional license or revocation of the license. Such denial, suspension, the placing on probationary or provisional license, or revocation shall become effective 30 days after mailing, unless the applicant or licensee, within such 30-day period shall meet the requirements of the department or shall give written notice to the department of its desire for a hearing, in which case the denial, suspension, the placing on probationary or provisional license, or revocation shall be held in abeyance until the hearing has been concluded and a final decision rendered; provided, however, that such applicant or licensee may appeal from such denial, suspension, placing on probationary or provisional license, or revocation, to any court having jurisdiction of such matters.

The Commissioner of the Department of Institutions and Agencies shall arrange for prompt and fair hearings on all such cases, render written decisions stating conclusions and reasons therefor upon each matter so heard, and is empowered to enter orders of denial, suspension, placing on probationary or provisional license or revocation consistent with the circumstances in each case.

30:11-3.1 INSPECTION OF PREMISES; APPROVAL OF STRUCTURAL CHANGES

The department shall make or cause to be made such inspections of the premises of the licensee from time to time as it may deem necessary to be assured that the licensee is at all times complying with the provisions of this chapter, with the rules and regulations promulgated hereunder and with the minimum standards of medical and nursing care established by virtue of the authority of this chapter.

The licensee, prior to making any alterations, additions or improvements to its facilities or prior to the construction of new facilities shall, before commencing such work, submit plans and specifications to the department for preliminary inspection and approval or recommendations with respect thereto. No such plan shall be disapproved if it complies with minimum requirements.

30:11-4 PENALTY FOR OPERATION WITHOUT LICENSE

(a) Any person, firm, partnership, corporation or association who shall operate or conduct a private mental hospital, convalescent home, private nursing home or private hospital without first obtaining the license required by this chapter, or who shall operate such private nursing home, convalescent home or private hospital after revocation or suspension of license shall be liable to a penalty of \$25.00 for each day of operation in violation hereof for the first offense and for any subsequent offense shall be liable to a penalty of \$50.00 for each day of operation in violation hereof. The State Board of Control, with the approval of the Attorney General, is hereby authorized and empowered to compromise and settle claims for money penalties in appropriate circumstances where it appears to the satisfaction of the board that payment of the full penalty will work severe hardship on any individual not having sufficient financial ability to pay the full penalty but in no case shall the penalty be compromised for a sum less than \$250.00 for the first offense and \$500.00 for the second and each subsequent offense; provided, however, that any penalty of less than \$250.00 or \$500.00, as the case may be, may be compromised for a lesser sum.

The penalties authorized by this section shall be recovered in a civil action, brought in the name of the State of New Jersey in the Superior Court or the County Court of any county, which court shall have jurisdiction of all actions to recover such penalties. No money penalties provided for herein shall be required to be paid until the appellate procedures provided for in the courts shall have been exhausted and then only if on appeal it is determined that the licensee was in violation of the provisions hereof or the rules and regulations of the board of control establishing minimum standards of operation. No penalties shall be assessed for the period of time following the filing of an appeal with the appropriate appellate court from a determination adverse to the licensee rendered by the department and until such appellate court or courts shall have rendered a final decision, and any penalties assessed prior thereto shall be recoverable only to the extent that the appellate court or courts affirms the decision of the department in the first instance. Money penalties, when recovered, shall be payable to the General State Fund.

The department may, in the manner provided by law, maintain an action in the name of the State of New Jersey for injunction against any person, firm, partnership, association or corporation continuing to conduct, manage or operate a private nursing home, convalescent home or private hospital without a license, or after suspension or revocation of license.

The practice and procedure in actions instituted under authority of this section shall conform to the practice and procedure in the court in which the action is instituted.

(b) Whenever a boarding home for sheltered care, boarding house or rest home or facility or institution of like character, not licensed hereunder, by public or private advertising or by other means holds out to the public that it is equipped to provide post-operative or convalescent care for persons mentally ill or mentally retarded or who are suffering or recovering from illness or injury, or who are chronically ill, or whenever there is a reason to believe that any such facility or institution, not licensed hereunder, is violating any of the provisions of this chapter, then, and in such case, the department shall be permitted reasonable inspection of such premises for the purpose of ascertaining whether there is any violation of the provisions hereof.

Any person, firm, association, partnership or corporation, not licensed hereunder, but who holds out to the public by advertising or other means that the medical and nursing care contemplated by this chapter will be furnished to persons seeking admission as patients, shall cease and desist from such practice and shall be liable to a penalty of \$100.00 for the first offense and \$200.00 for each subsequent offense, such penalty to be recovered as provided for herein. If any such boarding home for sheltered care, boarding house, rest home or other facility or institution shall operate as a private mental hospital, convalescent home, private nursing home or private hospital in violation of the provisions of this act and any supplements thereto then the same shall be liable to the penalties which are prescribed and capable of being assessed against hospitals or nursing homes pursuant to subsection (a) of this section.

30:11-5 (Repealed)

30:11-6 HOSPITAL LICENSING BOARD; APPOINTMENT; TERM

The State Board of Control, subject to the approval of the Governor, shall appoint a hospital licensing board which shall consist of the Commissioner of the Department of Institutions and Agencies, the State Director of Health, the president of the State Board of Medical Examiners, 2 hospital administrators of recognized ability and 5 qualified persons, 2 of whom shall represent the interests of the public at large, 1 of whom shall have special qualifications and training in the field of nursing and 2 of whom shall be selected from among the owners and administrators of the several private nursing homes. The board shall be representative of the aforementioned groups and shall be appointed for terms of 6 years, except when appointed to complete an unexpired term. Members whose terms expire shall hold office until appointment of their successors. They shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their official duty.

30:11-7 HOSPITAL LICENSING BOARD; DUTIES

The hospital licensing board shall have the following responsibilities and duties:

a. To consult and advise with the State Board of Control of the Department of Institutions and Agencies in matters of policy affecting the administration of this chapter and in the development of rules, regulations and minimum standards of nursing and medical care as provided for herein.

b. To review and make recommendations with respect to such rules, regulations and minimum standards authorized hereunder prior to their promulgation by the State Board of Control.

The board shall meet not less than once each year and, in addition, as often as shall be required to conduct the business of the board and to assist and advise in the administration of the duties and responsibilities imposed by this chapter.

30:11-8 PRIVATE MENTAL HOSPITAL, PRIVATE NURSING HOME, CONVALESCENT HOME AND PRIVATE HOSPITAL DEFINED

A private mental hospital, private nursing home, convalescent home or private hospital, for the purpose of this chapter, is defined as any institution, whether operated for profit or not, which is not maintained, supervised or controlled by an agency of the government of the State or of any county or municipality, and which maintains and operates facilities for the diagnosis, treatment or care of 2 or more nonrelated individuals, who are patients as defined herein.

The word "hospital" as used herein shall not be deemed to include first-aid stations for emergency medical or surgical treatment where no continuous bed care or protracted treatment is contemplated or performed.

As used in this chapter a "patient" is a person who is suffering from mental illness, mental deficiency, mental retardation, an acute or chronic illness or injury, or who is crippled, convalescent or infirm and who is in need of medical and nursing care on a continuing basis, or who is in need of obstetrical or other medical or nursing care. Infirm is construed to mean that the individual is in need of assistance in bathing, dressing or some type of supervision.

As used herein, a "boarding house" shall be construed to be a family home or larger structural unit in which, for compensation, persons are given room and board including or not including, as the case may be, heat, light, toilet and bathroom facilities; and in which there is no agreement between operator and boarder to give personal care or special attention.

As used herein, a "boarding home for sheltered care" is defined as any establishment, a single or multiple dwelling, public or private, incorporated or unincorporated, 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 4 or more adult persons unrelated to the proprietor and which provides any personal care or service beyond food, shelter and laundry, to any one or more of such persons, excluding, however, any privately operated establishment licensed under this chapter.

Any private mental hospital, private nursing home, convalescent home or private hospital, as well as institutions operated and maintained by any agency of the government of any county or municipality which shall apply for and receive Federal funds under the provisions of Public Law 725 of the 79th Congress, Chapter 958, 2d Session, shall be required to comply, as a condition precedent to receiving such funds, with the rules and regulations and the minimum standards of nursing and hospital care provided for in this chapter.

30:11-9 EXCEPTIONS AND EXEMPTIONS

Nothing in this act or in chapter eleven of Title 30 of the Revised Statutes shall give the licensing authority or agency herein provided for the power or authority to require any hospital to practice or permit sterilization of human beings, euthanasia, birth control or any other similar practice contrary to the dogmatic or moral beliefs of any well established religious body or denomination, nor shall any of the provisions thereof vest authority or be construed to vest authority in the Department of Institutions and Agencies or in the licensing authority or agency herein provided for to deny any application for license or approval as may be required by this act or said chapter on the sole ground that adequate hospital or nursing home facilities are already available in the vicinity or area for which the license or approval is sought.

Nothing in this act or in chapter eleven of Title 30 of the Revised Statutes shall be so construed as to give authority to supervise or regulate or control the remedial care or treatment of individual patients who are adherents of any well recognized church or religious denomination which subscribes to the act of healing by prayer and the principles of which are opposed to medical treatment and who are resident in any home or institution operated by a member or members, or by an association or corporation composed of members of such well recognized church or religious denomination; provided, that such home or institution admits only adherents of such church or denomination and is so designated; nor shall the existence of any of the above conditions alone militate against the licensing of such a home or institution; and provided further, that such home or institution shall comply with all rules and regulations relating to sanitation and safety of the premises and be subject to inspection therefor.

Nothing herein contained shall modify or repeal any laws, rules, and regulations governing the control of communicable diseases.

30:11-10

The provisions of article 3 of chapter 4 of Title 30 of the Revised Statutes, except as concerning or pertaining to the investigation and determination of legal settlement and indigence of patients, shall apply to duly licensed private mental hospitals for the care and treatment of the mentally ill, mentally deficient and mentally retarded and every license issued hereunder shall be the licensee's authority to receive and hold a person duly admitted or committed pursuant to law.

THIS ACT SHALL TAKE EFFECT IMMEDIATELY.