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*N.J. Stat. § 26:2H-1* (2014)

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

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

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*N.J. Stat. § 26:2H-2* (2014)

§ 26:2H-2. Definitions

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

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

b. "Health care service" means the preadmission, outpatient, inpatient, and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis, or treatment of human disease, pain, injury, disability, deformity, or physical condition, including, but not limited to, nursing service, home care nursing, and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice, except as provided in sections 7 and 12 of P.L.1971, c.136 (*C.26:2H-7* and *26:2H-12*), or by practitioners of healing solely by prayer, and services provided by first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P.L.1971, c.351 (*C.27:5F-1* et seq.).

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

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

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

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

g. (Deleted by amendment, P.L.1991, c.187).

h. (Deleted by amendment, P.L.1991, c.187).

i. "Department" means the Department of Health.

j. "Commissioner" means the Commissioner of Health.

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

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

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

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

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

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

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

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

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

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

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*N.J. Stat. § 26:2H-3* (2014)

§ 26:2H-3. Repealed by L.1991, c. 187, § 84, eff. July 31, 1991

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*N.J. Stat. § 26:2H-4* (2014)

§ 26:2H-4. Health Care Administration Board; membership; appointment; terms; vacancies; meetings; compensation

There shall be in the State Department of Health, a Health Care Administration Board which shall consist of 13 members, 11 of whom shall be appointed by the Governor with the advice and consent of the Senate, and representative of medical and health care facilities and services, labor, industry and the public at large, and two of whom shall be ex officio members. Of the 11 members appointed by the Governor, no less than six shall be consumers of health care services who are not providers of health care services, and at least one shall be representative of long-term health care facilities or services. The State Commissioner of Health and the Commissioner of Insurance or their designated representatives, shall be ex officio voting members of the board and shall serve on the board during their respective terms of office. Of the original members appointed to the board, four shall be appointed for terms of three years, four for terms of two years, and three for terms of one year. Following the expiration of the initial terms, members of the board shall be appointed for terms of four years. Any vacancy occurring in the membership of the board shall be filled in the same manner as the original appointment, but for the unexpired term only. Appointive members of the board shall continue to serve as voting members until their successors are appointed. The board shall meet at least quarterly and at such other times as its rules may prescribe or as in its judgment, may be necessary. The appointive members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

Members serving on the board on the effective date of this act shall continue to serve until the expiration of their terms. Successors shall be appointed only from among consumers of health care services who are not providers of such services until there are at last six such members on the board. Successors shall thereafter be appointed from among both consumers and providers of health care services in a manner consistent with the terms of this act.

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*N.J. Stat. § 26:2H-4.1* (2014)

§ 26:2H-4.1. Repealed by L.1992, c. 160, § 41, eff. Jan. 1, 1994

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*N.J. Stat. § 26:2H-5* (2014)

§ 26:2H-5. Commissioner's powers

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

b. The commissioner, with the approval of the board, shall adopt and amend rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.) to effectuate the provisions and purposes of this act, including but not limited to: (1) the establishment of requirements for a uniform Statewide system of reports and audits relating to the quality of health care provided, health care facility utilization and costs; (2) certification by the department of schedules of rates, payments, reimbursement, grants and other charges for health care services as provided in section 18 [*C.26:2H-18*]; and (3) standards and procedures relating to the licensing of health care facilities and the institution of certain additional health care services.

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

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

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

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

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

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*N.J. Stat. § 26:2H-5a* (2014)

§ 26:2H-5a. Coordination of hospital inspections

The Commissioner of Health shall, to the extent possible and reasonable within the Department of Health's responsibilities under P.L. 1971, c. 136 (*C.26:2H-1* et seq.), coordinate its annual inspection of a hospital with the triennial inspection conducted by the Joint Commission for the Accreditation of Healthcare Organizations to prevent duplication during the inspection process.

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*N.J. Stat. § 26:2H-5b* (2014)

§ 26:2H-5b. Routine monitoring of pain as fifth vital sign required

a. The Commissioner of Health shall prescribe, by regulation, requirements to be adopted by health care facilities licensed pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) for the routine monitoring of pain as a fifth vital sign in patients, in addition to blood pressure, pulse, respiration, and temperature.

For the purpose of this subsection, the commissioner shall require health care facilities to:

(1) routinely inquire whether a patient is in pain;

(2) maintain policies and procedures as prescribed by the commissioner for asking patients to rate their degree of pain for a specified period of time and to record their responses; and

(3) routinely record levels of pain intensity on patient charts.

b. The requirements to be adopted pursuant to subsection a. of this section shall take effect no later than the 180th day after the effective date of this act.

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*N.J. Stat. § 26:2H-5c* (2014)

§ 26:2H-5c. Rules, regulations

The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.), shall adopt rules and regulations to effectuate the purposes of this act [*C.26:2H-5b*, *26:2H-5c*], for which purpose the commissioner shall consult, at a minimum, with: the State Board of Medical Examiners, the New Jersey Board of Nursing, the Board of Pharmacy, the New Jersey Hospital Association, the New Jersey Association of Health Care Facilities, the Medical Society of New Jersey, the New Jersey Association of Osteopathic Physicians and Surgeons, the New Jersey State Nurses Association, the Home Health Assembly of New Jersey, and the New Jersey Hospice and Palliative Care Organization.

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*N.J. Stat. § 26:2H-5d* (2014)

§ 26:2H-5d. Provision of information by home health agency to patient

a. The Commissioner of Health, in consultation with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, shall require that, no later than the 180th day after the date of enactment of this act, each home health agency licensed pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) shall provide the following information to each patient receiving home-based services from that agency, or to a person designated by the patient:

(1) the name and certification or licensure title, as applicable, of the homemaker-home health aide or other health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes, to be displayed on an identification tag as required for homemaker-home health aides by regulation of the New Jersey Board of Nursing, or as otherwise to be prescribed by regulation of the commissioner for other health care professionals, that the homemaker-home health aide or other health care professional shall wear at all times while examining, observing, or caring for the patient; and

(2) a copy of the most current edition of the consumer guide to homemaker-home health aides published by the New Jersey Board of Nursing.

b. The consumer guide required pursuant to subsection a. of this section shall be provided:

(1) in advance of the provision of services to the patient, whenever possible; and

(2) otherwise upon the homemaker-home health aide's initial visit to the patient's home.

c. Beginning on the first day of the 13th month after the date of enactment of this act, the identification tag required pursuant to subsection a. of this section shall include a photograph of the homemaker-home health aide or other health care professional.

d. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.), shall adopt rules and regulations to effectuate the purposes of this section.

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*N.J. Stat. § 26:2H-5e* (2014)

§ 26:2H-5e. Adoption of policies for notifying family members of patient deaths by health care facilities

A general or special hospital, nursing home or assisted living residence licensed pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) shall, commencing no later than the 180th day after the effective date of this act and as prescribed by regulation of the Commissioner of Health, adopt and maintain written policies and procedures to delineate the responsibilities of its staff for prompt notification of a family member, guardian, or other designated person about a patient's death and confirmation and written documentation of that notification.

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*N.J. Stat. § 26:2H-5f* (2014)

§ 26:2H-5f. Findings, declarations relative to staffing in certain health care facilities

The Legislature finds and declares that hospital patients and nursing home residents, in the interest of being fully informed about the quality of health care provided at the facility where they are receiving health care services, are entitled to have access to the information that is required to be posted and otherwise provided to members of the public under this act about direct patient or resident care staffing levels at the facility.

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*N.J. Stat. § 26:2H-5g* (2014)

§ 26:2H-5g. Compilation, posting of certain staffing information by health care facilities

a. A general hospital licensed pursuant to P.L. 1971, c. 136 (*C. 26:2H-1* et seq.) shall compile, and shall post daily in the patient care area of each unit of the hospital and provide upon request to a member of the public, information detailing for each unit and for the end of the prevailing shift, as appropriate:

(1) the number of registered professional nurses providing direct patient care and the ratio of patients to registered professional nurses;

(2) the number of licensed practical nurses providing direct patient care and the ratio of patients to licensed practical nurses;

(3) the number of certified nurse aides providing direct patient care and the ratio of patients to certified nurse aides;

(4) the number of other licensed or registered health care professionals meeting State staffing requirements; and

(5) the methods used by the hospital for determining and adjusting direct patient care staffing levels.

b. (1) A nursing home licensed pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) shall compile, and shall include with the information about health care professionals who are directly responsible for resident care, which it is required under federal law to post in areas where this information can be viewed by residents and members of the public, information that details the ratio of these health care professionals to residents for that particular day on each shift.

(2) The nursing home shall also provide to a member of the public, upon request, the information that is posted in accordance with the provisions of paragraph (1) of this subsection.

c. The information that is posted pursuant to subsections a. and b. of this section shall be displayed in a manner that is visible and accessible to all patients or residents, as applicable, their families and caregivers in the facility, as determined by regulation of the Commissioner of Health and Senior Services and subject to the applicable requirements of federal law.

d. A general hospital and nursing home shall report the information compiled pursuant to subsection a. or b. of this section, respectively, to the commissioner on a monthly basis, on a form and in a manner prescribed by the commissioner. The commissioner shall make this information available to the public on a quarterly basis, accompanied by a written explanation, which the commissioner shall prepare in consultation with the Quality Improvement Advisory Committee established by the commissioner, to assist members of the public in interpreting the information reported pursuant to this section.

e. A general hospital or nursing home that fails to comply with the provisions of this act, or any rules or regulations adopted pursuant thereto, shall be subject to a penalty as determined by the commissioner pursuant to sections 13 and 16 of P.L. 1971, c. 136 (*C. 26:2H-13* and *C.26:2H-16*).

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*N.J. Stat. § 26:2H-5h* (2014)

§ 26:2H-5h. Rules, regulations

The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.), shall adopt rules and regulations to effectuate the purposes of this act, in consultation with the Quality Improvement Advisory Committee established by the commissioner. The regulations shall include, but not be limited to, procedures for standardizing the reporting of information by general hospitals and nursing homes that is required pursuant to subsection d. of section 2 [*C.26:2H-5g*] of this act.

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*N.J. Stat. § 26:2H-5.1* (2014)

§ 26:2H-5.1. Collection of information on costs and revenues; report to legislature

The Commissioner of the Department of Health shall, on a continuous basis, collect information concerning all costs and revenues of residential health care facilities licensed pursuant to P.L.1971, c. 136 (*C. 26:2H-1* et seq.) so as to provide a means for the Legislature to determine whether it is advisable for the commissioner to set variable rates for payment to such facilities and whether payments for Supplemental Security Income under P.L.1973, c. 256 (*C. 44:7-85* et seq.) for eligible residents of such facilities should be supplemented in accordance with any such rates.

One year following the effective date of this act, the commissioner shall submit a report to the Legislature's Joint Appropriations Committee and Standing Reference Committees on Institutions, Health and Welfare containing the information required herein to be collected.

To collect information concerning the costs and resources of residential health care facilities, the commissioner is authorized to conduct such field visits and audits as may be necessary, and the owners of such facilities shall submit such reports, audits and accountings of cost as the commissioner may require by regulation; provided, however, that such reports, audits and accountings shall be the minimum necessary to implement the provisions of this section.

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*N.J. Stat. § 26:2H-5.1a* (2014)

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

a. The Commissioner of Health shall prescribe, by regulation: (1) specific indicators by which a general hospital may be evaluated for financial soundness, and the thresholds at which it may be considered to be in financial distress or at risk of being in financial distress; and (2) the progressive levels of monitoring and department participation in the development and oversight of corrective measures to resolve a general hospital's financial or potential financial difficulties, including the various levels of involvement by an appointed monitor. The indicators and progressive levels of monitoring and intervention shall be guided by the indicators and levels of monitoring and intervention identified in the final report of the New Jersey Commission on Rationalizing Health Care Resources, issued on January 24, 2008.

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

(1) days cash-on-hand;

(2) cushion ratio;

(3) days in accounts receivable;

(4) average payment period;

(5) total margin;

(6) earnings before depreciation; and

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

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

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

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

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*N.J. Stat. § 26:2H-5.1b* (2014)

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

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

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

b. permit the Commissioner of Health, or a monitor appointed by the commissioner, as applicable, to oversee its financial operations, and, if the commissioner determines that the hospital is at risk of being in financial distress or is in financial distress based on criteria specified by regulation, participate in the development and implementation of a corrective plan to resolve the hospital's financial difficulties, pursuant to section 2 of P.L.2008, c.58 (*C.26:2H-5.1a*).

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*N.J. Stat. § 26:2H-5.1c* (2014)

§ 26:2H-5.1c. Ambulatory care facility to use common billing form

An ambulatory care facility licensed to provide surgical services pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) shall use a common billing form, designated by the Commissioner of Health, for each patient when billing for health care services. The information provided on the billing form shall, to the extent applicable, be the same as that required of hospitals.

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*N.J. Stat. § 26:2H-5.1d* (2014)

§ 26:2H-5.1d. Identification numbers of physicians publicly available

The commissioner shall make publicly available the identification number for the physician or physicians, as applicable, that appear on hospital billing forms and billing forms of ambulatory care facilities licensed to provide surgical services, to the extent that doing so is consistent with the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191.

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*N.J. Stat. § 26:2H-5.1e* (2014)

§ 26:2H-5.1e. Quarterly report from ambulatory care facility; required information

a. An ambulatory care facility licensed to provide surgical services pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) shall be required to report quarterly to the Department of Health, in a form and manner prescribed by the commissioner:

(1) process quality indicators of infection control as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department; and

(2) beginning 30 days after the adoption of regulations pursuant to this act [*C.26:2H-5.1c* et seq.], data on infection rates for the major site categories that define facility-associated infection locations, multiple infections, and device-related and non-device related infections, as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department.

b. The information reported pursuant to this section shall be transmitted in such a manner as to not include identifying information about patients.

c. The commissioner shall promptly advise an ambulatory care facility in the event that the commissioner determines, based on information reported by the facility, that a change in facility practices or policy is necessary to improve performance in the prevention of facility-associated infection and quality of care provided at the facility.

d. The commissioner shall make available to members of the public, on the official Internet website of the department, the information reported pursuant to this section, in such a format as the commissioner deems appropriate to enable comparison among ambulatory care facilities with respect to the information.

e. In order to effectuate the purposes of this section, the commissioner, in consultation with the Quality Improvement Advisory Committee in the department, shall, by regulation: establish standard methods for identifying and reporting facility-associated infections; identify the major site categories for which infections shall be reported, taking into account the categories most likely to improve the delivery and outcome of health care in the State; and specify the methodology for presenting the data to the public, including procedures to adjust for differences in case mix and severity of infections among facilities.

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*N.J. Stat. § 26:2H-5.1f* (2014)

§ 26:2H-5.1f. Rules, regulations

The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.), shall adopt rules and regulations to effectuate the purposes of this act [*C.26:2H-5.1c* et seq.].

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*N.J. Stat. § 26:2H-5.2* (2014)

§§ 26:2H-5.2 to 26:2H-5.6. Repealed by L. 1991, c. 187, § 84, eff. July 31, 1991

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*N.J. Stat. § 26:2H-5.7* (2014)

§ 26:2H-5.7. State Health Planning Board established

There is established in the Department of Health a State Health Planning Board. The members of the board shall include: the Commissioners of Health, Children and Families, and Human Services, or their designees, who shall serve as ex officio, nonvoting members; the chairmen of the Health Care Administration Board and the Public Health Council, or their designees, who shall serve as ex officio members; and nine public members appointed by the Governor with the advice and consent of the Senate, five of whom are consumers of health care services who are neither providers of health care services or persons with a fiduciary interest in a health care service.

Of the additional public members first appointed pursuant to P.L.1998, c.43, two shall serve for a term of two years and two shall serve for a term of three years. Following the expiration of the original terms, the public members shall serve for a term of four years and are eligible for reappointment. Public members serving on the board on the effective date of P.L.1998, c.43 shall continue to serve for the term of their appointment. Any vacancy shall be filled in the same manner as the original appointment, for the unexpired term. Public members shall continue to serve until their successors are appointed. The public members shall serve without compensation but may be reimbursed for reasonable expenses incurred in the performance of their duties, within the limits of funds available to the board.

a. A member or employee of the State Health Planning Board shall not, by reason of his performance of any duty, function, or activity required of, or authorized to be undertaken by the board, be held civilly or criminally liable if that person acted within the scope of his duty, function, or activity as a member or employee of the board, without gross negligence or malice toward any person affected thereby.

b. A member of the State Health Planning Board shall not vote on any matter before the board concerning an individual or entity with which the member has, or within the last 12 months has had, any substantial ownership, employment, medical staff, fiduciary, contractual, creditor, or consultative relationship. A member who has or has had such a relationship with an individual or entity involved in any matter before the board shall make a written disclosure of the relationship before any action is taken by the board with respect to the matter and shall make the relationship public in any meeting in which action on the matter is to be taken.

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*N.J. Stat. § 26:2H-5.8* (2014)

§ 26:2H-5.8. Review of application for certificate of need

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

b. The State Health Planning Board shall review applications for certificates of need and make recommendations to the Commissioner of Health.

c. In the case of an application for a certificate of need to transfer ownership of an existing general acute care hospital or to close or eliminate a health care facility or service that is subject to review by the State Health Planning Board, the State Health Planning Board shall hold at least one public hearing in the service area of the health care facility or service; except that, in the event the Attorney General or the Department of Health is required by State law to hold a public hearing on the transfer of ownership of the hospital, the State Health Planning Board shall not be required to hold a public hearing on the application for a certificate of need to transfer ownership of the hospital. The public hearing shall be held no later than 30 days after an application is deemed complete by the Commissioner of Health. Public notice of the hearing shall be provided at least two weeks in advance of the date of the hearing.

Notwithstanding the provisions of this subsection to the contrary, in the event that the commissioner determines that a proposed closure or elimination of a health care facility or service should be considered on an expedited basis in order to preserve the quality of health care provided to the community, the commissioner may reduce the period of time required for public notice of the hearing.

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*N.J. Stat. § 26:2H-5.9* (2014)

§ 26:2H-5.9. Repealed by L. 1998, c. 43, § 19, eff. June 30, 1998

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*N.J. Stat. § 26:2H-5.10* (2014)

§ 26:2H-5.10. Findings, declarations relative to use of needles, sharp devices in health care facilities

The Legislature finds and declares that:

a. The use of conventional needles results in increased risk of HIV infection and hepatitis B and C to health care workers;

b. Each year, from 150 to 200 health care workers die and many suffer chronic and debilitating diseases due to needle stick injuries;

c. Equipment exists to prevent most injuries that result from needle stick injuries but overall concern with cutting health care costs has impeded the widespread use of advanced, safer technology; and

d. Newer, safer needle technology should be adopted in health care facilities.

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*N.J. Stat. § 26:2H-5.11* (2014)

§ 26:2H-5.11. Definitions relative to use of needles, sharp devices in health care facilities

As used in this act:

"Commissioner" means the Commissioner of Health.

"Department" means the Department of Health.

"Needle stick injury" means the parenteral introduction into the body of a health care worker of blood or other potentially infectious material by a needle or other sharp device during the worker's performance of health care duties in a health care facility.

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*N.J. Stat. § 26:2H-5.12* (2014)

§ 26:2H-5.12. Integrated safety features required on needles, etc.; dentists, exempt, certain circumstances

a. No later than 12 months after the date of enactment of this act, the commissioner shall require that a health care facility licensed pursuant to P.L.1971, c.136 (*C.26:2H-1* et seq.) use only needles and other sharp devices with integrated safety features, which needles and other sharp devices have been cleared or approved for marketing by the federal Food and Drug Administration and are commercially available for distribution.

b. By a date established by the commissioner by regulation, but no later than 36 months after the date of enactment of this act, the requirements of subsection a. of this section shall also apply to pre-filled syringes, as that term is defined by the commissioner by regulation pursuant to this act.

c. No later than six months after the date of enactment of this act, the commissioner shall develop evaluation criteria for use by an evaluation committee established pursuant to subsection a. of section 4 of this act in selecting needles and other sharp devices for use by a health care facility.

d. In the event that there is no cleared or approved for marketing product with integrated safety features for a specific patient use, the licensed health care facility shall continue to use the appropriate needle or other sharp device that is available, including any needle or other sharp device with non-integrated, add-on safety features, until such time as a product with integrated safety features is cleared or approved for marketing and is commercially available for that specific patient use.

e. No later than six months after the date of enactment of this act, the commissioner shall develop and make available to health care facilities a standardized form that shall be used by health care professionals and the health care facility's evaluation committee for applying for a waiver and in reviewing a request for a waiver, respectively, and for reporting the use of a needle or other sharp device without integrated safety features in an emergency situation by a health care professional, pursuant to the provisions of subsection d. of section 4 of this act.

f. Notwithstanding the provisions of this section to the contrary, a dentist who determines that use of a needle or other sharp device with integrated safety features potentially may have a negative impact on patient safety or the success of a specific medical procedure may use a needle or other sharp device without integrated safety features, without obtaining a waiver from the evaluation committee and without providing notification to the evaluation committee pursuant to section 4 of P.L.1999, c.311 (*C.26:2H-5.13*).

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*N.J. Stat. § 26:2H-5.13* (2014)

§ 26:2H-5.13. Responsibilities of health care facility

A health care facility shall:

a. Establish an evaluation committee in which at least half of the members are direct-care health care workers who shall select needles and other sharp devices from each class of needle or other sharp device for which the commissioner has developed evaluation criteria pursuant to subsection c. of section 3 of this act [26:2H-15.12];

b. Provide for education and training, as appropriate, in the use of designated needles and other sharp devices;

c. Develop a mechanism to continually review and evaluate newly introduced needles and other sharp devices available in the marketplace for use in a health care facility;

d. Establish a waiver procedure for health care professionals wherein a health care professional practicing at the health care facility may request the evaluation committee to grant the professional a waiver from the requirements of subsection a. or b. of section 3 of this act [26:2H-15.12] for a specific product that will be used for a specific medical procedure that shall be performed on a specific class of patients. The evaluation committee shall grant a waiver if it determines that use of a needle or other sharp device with integrated safety features potentially may have a negative impact on patient safety or the success of a specific medical procedure.

A health care professional may use a needle or other sharp device without integrated safety features in an emergency situation, without obtaining a waiver from the evaluation committee, if the professional determines that use of a needle or other sharp device with integrated safety features potentially may have a negative impact on patient safety or the success of a specific medical procedure, and the professional notifies the evaluation committee, in writing, within five days of the date the needle or other sharp device was used of the reasons why that needle or other sharp device was necessary.

The use of a needle or other sharp device that does not meet the requirements of subsection a. or b. of section 3 of this act [*26:2H-5.12*] shall be permitted under this act if it is used in accordance with the requirements of this subsection;

e. Record needle stick injuries in a Sharps Injury Log or an OSHA 200 Log, and shall include in the log a description of the injury, including the type and brand name of the needle or other sharp device involved in the injury; and

f. Report to the department quarterly, in a form and manner prescribed by the department: (1) all entries of an injury in a Sharps Injury Log or an OSHA 200 Log; and (2) all waivers granted to health care professionals and the reasons therefor, and all emergency uses by health care professionals of needles and other sharp devices without integrated safety features and the reasons therefor, pursuant to subsection d. of this section.

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*N.J. Stat. § 26:2H-5.14* (2014)

§ 26:2H-5.14. Review of health care facilities reports, recommendations

The department shall review the reports submitted by health care facilities pursuant to section 4 of this act [26:2H-15.13] on a quarterly basis and shall make recommendations to the respective health care facility for reducing the incidence of needle stick injury, when appropriate.

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*N.J. Stat. § 26:2H-5.15* (2014)

§ 26:2H-5.15. Annual report to Legislature

The commissioner shall report annually to the Senate and General Assembly Health Committees on the implementation of this act. The report shall include the number of needle stick injuries, the type and brand names of the needles or other sharp devices involved in the injuries, the number of waivers that were granted and the number of emergency uses of needles or other sharp devices without integrated safety features. The report shall include such recommendations for legislative action as the commissioner deems appropriate to ensure that the purposes of this act are realized.

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*N.J. Stat. § 26:2H-5.16* (2014)

§ 26:2H-5.16. Rules, regulations

The commissioner, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 413 (*C. 52:14B-1* et seq.), shall adopt rules and regulations to effectuate the purposes of this act.