

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3900

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 27, 2019

SUMMARY

- Synopsis:** Requires certain long-term care facilities to submit outbreak response plan to DOH.
- Type of Impact:** Increase in State and county expenditures.
- Agencies Affected:** Department of Health; Department of Military and Veterans Affairs; and certain county governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
County Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the Department of Health (DOH) may incur indeterminate costs under the bill in: 1) reviewing and verifying compliance of long-term care facility outbreak response plans, as required to be submitted to the department under the bill; and 2) triennially assessing the State’s need for additional space in long-term care facilities in order to execute outbreak response plans, and issuing any certificates of need determined to be necessary. Without more information from the Executive, however, the OLS cannot quantify the costs that may be incurred by the DOH under the bill.
- The OLS finds that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) or certain county governments may incur indeterminate increases in expenditures to develop and submit to the department an outbreak response plan and, in the case of those facilities providing care to ventilator-dependent residents, in complying with the staffing requirements of the bill. Certain costs may be minimized to the extent that affected nursing homes currently fulfill the provisions of the bill and that the bill codifies existing regulatory requirements regarding mandatory infection control and sanitation. The OLS, however, does not have access to information regarding the existing policies at these facilities, and therefore cannot quantify the fiscal impact.



BILL DESCRIPTION

This bill requires the DOH to require long-term care facilities to develop an outbreak response plan within 180 days after the effective date of the bill. Each plan is to be customized to the facility, based on national standards and developed in consultation with the facility's infection control committee, if any.

Each outbreak response plan developed under the bill will be required to include: (1) a protocol for isolating and cohorting infected and at-risk patients in the event of an outbreak of a contagious disease; (2) clear notification policies for residents, families, visitors, and staff in the event of an outbreak; (3) information on the availability of laboratory testing and various protocols for assessing whether facility visitors are ill, requiring ill staff to not present at the facility for work duties, and implementing evidence-based outbreak response measures; (4) policies to conduct routine monitoring to quickly identify signs of a potential outbreak; and (5) policies for reporting outbreaks to public health officials in accordance with applicable laws and regulations.

In addition, outbreak response plans prepared by long-term care facilities that provide care to ventilator-dependent residents are additionally required to include policies to meet staffing, training, and facility demands during an outbreak to successfully implement the outbreak response plan, including retaining the services of an individual certified in infection control and a physician with who has completed an infectious disease fellowship. Facilities providing care to ventilator-dependent residents are required to review their outbreak response plans at least annually and submit an updated plan to the DOH for review within 30 days after completing any material change to the plan.

Long-term care facilities that provide care to ventilator-dependent residents will be required to assign to the facility's infection control committee: 1) a physician who has completed an infectious disease fellowship; and 2) a designated infection control coordinator who meets certain education, training, and experience requirements, which individuals are required to attend at least half of the committee's meetings. Committees are to meet at least quarterly.

The DOH is to issue a certificate of need to a long-term care facility which the department determines is in need of a physical expansion of its facilities to permit the long-term care facility to execute the outbreak response plan submitted pursuant to the bill's provisions. In addition, the DOH is to triennially assess the State's need for additional space in long-term care facilities and issue certificates of need to facilities in need of physical expansion to permit long-term care facilities to execute an outbreak response plan submitted pursuant to the bill's provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the DOH may incur indeterminate costs under the bill in: 1) reviewing and verifying compliance of long-term care facility outbreak response plans, as required to be submitted to the department under the bill; and 2) triennially assessing the

State's need for additional space in long-term care facilities in order to execute outbreak response plans, and issuing any certificates of need determined to be necessary. According to the department, there are 843 long-term care facilities in New Jersey.

As the provisions of the bill generally reflect the department's current duties, certain requirements of the bill may be performed by the DOH's existing entities, thereby minimizing costs. For examples, the department's Communicable Disease Service (CDS) routinely works with health care partners to provide technical support and guidance regarding infection control. Within the CDS, the Infection Control and Response performs on-site assessments with a focus on the prevention of healthcare-associated infection investigations and prevention of infection control breaches in healthcare facilities through adherence to best practices and state and federal requirements. Also, the State Health Planning Board acts as an advisory panel to the Commissioner of Health concerning recommendations on certificate of need applications to create certain new health care facilities or to expand existing services. Without more information from the Executive, however, the OLS cannot quantify the costs that may be incurred by the DOH under the bill.

The OLS also finds that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate increases in operating expenditures to develop and submit to the department an outbreak response plan and, in the case of those facilities providing care to ventilator-dependent residents, in complying with the staffing requirements of the bill. Certain costs may be minimized to the extent that affect nursing homes currently fulfill the provisions of the bill and that the bill codifies existing regulatory requirements regarding mandatory infection control and sanitation. The OLS, however, does not have access to information regarding the existing policies at these facilities, and therefore cannot quantify the fiscal impact.

Currently, the DMAVA operates three facilities, while there are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County. The OLS does not have access to information regarding the number of these facilities that provide care to ventilator-dependent residents.

Long-term care facilities are regulated under N.J.A.C.8:39-19.1 et seq. regarding mandatory infection control and sanitation. To the extent that the bill requires a long-term care facility to present a documented plan for compliance with existing regulation, the costs incurred by the affected DMAVA and county nursing homes may be minimized. For example, the bill requires a facility's outbreak response plan to include policies to conduct routine monitoring of staff to quickly identify signs of a potential outbreak, while existing regulation prohibits staff who have symptoms of a communicable disease from performing functions that expose residents to risk of transmission of the disease.

The bill also expands the scope of certain existing regulatory requirements. For example, pursuant to N.J.A.C.8:39-19.1, a long-term care facility is required to have an infection prevention and control program conducted by an infection control committee. The responsibility for the infection prevention and control program is to be assigned to an employee who is designated as the infection control coordinator, with education, training, completed course work, or experience in infection control or epidemiology; or contracted to an outside party. Under the bill, the same provisions apply regarding the infection control coordinator in the case of a facility that provides care to ventilator-dependent residents; however, that individual is also to be a certified in infection control by the Certification Board of Infection Control and Epidemiology.

Section: Human Services

*Analyst: Sarah Schmidt
Senior Research Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).