

# ASSEMBLY, No. 4007

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 4, 2020

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Assemblymen Benson, Mukherji, Assemblywoman Reynolds-Jackson and  
Assemblyman Johnson**

**SYNOPSIS**

Requires DOH to implement and oversee Isolation Prevention Project in long-term care facilities during public emergencies.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 8/24/2020)**

1 AN ACT concerning the prevention of isolation among residents of  
2 long-term care facilities during public emergencies and  
3 supplementing Title 26 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. a. As used in this section:

9 “Commissioner” means the Commissioner of Health.

10 “Department” means the Department of Health.

11 “Long-term care facility” means a nursing home, assisted living  
12 facility, comprehensive personal care home, residential health care  
13 facility, or dementia care home licensed pursuant to P.L.1971, c.136  
14 (C.26:2H-1 et seq.).

15 “Outbreak response plan” means the plan developed by a long-  
16 term care facility, pursuant to section 1 of P.L.2019, c.243  
17 (C.26:2H-12.87), which includes a protocol for isolating and  
18 cohorting infected and at-risk residents at the facility in the event of  
19 an outbreak of contagious disease.

20 “Public emergency” means an environmental, public health, or  
21 public safety emergency that is occurring in New Jersey or in one or  
22 more counties, regions, or other parts of the State, and which is  
23 officially recognized and declared as an emergency by the Governor  
24 of New Jersey or by the President of the United States.

25 “Resident” means a senior citizen or other person who resides in  
26 a long-term care facility.

27 b. The Department of Health shall implement and oversee an  
28 “Isolation Prevention Project” in the State as provided by this  
29 section. At a minimum, the Isolation Prevention Project shall  
30 require each long-term care facility in the State to adopt and  
31 implement a written isolation prevention plan and have appropriate  
32 technology, staff, and other capabilities in place to prevent the  
33 facility’s residents from becoming isolated during public  
34 emergencies.

35 c. The isolation prevention plan adopted by each long-term  
36 care facility pursuant to this section shall:

37 (1) authorize residents of the facility to continue to engage in in-  
38 person contact and communication with other facility residents and  
39 with family members, friends, and other external support systems  
40 during a public emergency, to the extent that such in-person contact  
41 remains consistent with the circumstances of the public emergency,  
42 the orders that have been implemented to address that public  
43 emergency, and the facility’s outbreak response plan. The plan  
44 shall provide that, if in-person contact and communication is  
45 physically impossible or is deemed to pose a danger to the facility’s  
46 residents, due to environmental or other factors or circumstances  
47 resulting from the public emergency, or if in-person contact is  
48 officially limited or prohibited by the terms of the facility’s

1 outbreak response plan or by the orders that are implemented to  
2 address the emergency, as in the case of social distancing  
3 requirements imposed in response to the COVID-19 outbreak,  
4 residents shall be required to adhere to applicable social distancing  
5 guidelines or requirements or other official limitations or  
6 prohibitions imposed on in-person contact and communication, as  
7 appropriate, but shall remain authorized to engage in contact and  
8 communication by alternative electronic means, as provided by  
9 paragraph (2) of this subsection;

10 (2) authorize residents of the facility, including residents who  
11 may be physically isolated as a result of the implementation of the  
12 facility's outbreak response plan, to engage in face-to-face or  
13 verbal/auditory contact and communication with other facility  
14 residents and with family members, friends, and other external  
15 support systems during a public emergency, through the use of  
16 electronic or virtual means and methods, including, but not limited  
17 to, computer technology, the Internet, social media,  
18 videoconferencing, and other innovative technological means or  
19 methods;

20 (3) provide for residents of the facility who have disabilities that  
21 impede their ability to communicate, including, but not limited to,  
22 residents who are blind, deaf, or deaf-blind, residents who have  
23 Alzheimer's disease or other related dementias, and residents who  
24 have developmental disabilities, to be given access to assistive and  
25 supportive technology as may be necessary to facilitate the  
26 residents' face-to-face or verbal/auditory contact and  
27 communication with other residents, family members, friends, and  
28 other external support systems, through electronic means, as  
29 provided by paragraph (2) of this subsection;

30 (4) provide for the facility to preemptively acquire, and to  
31 engage in the ongoing maintenance and replacement of, computers,  
32 videoconferencing equipment, distance-based communications  
33 technology, assistive and supportive technology and devices, and  
34 other technological equipment and accessories or electronic licenses  
35 as may be necessary to ensure that residents of the facility are able  
36 to engage in face-to-face or verbal/auditory communications with  
37 other facility residents and with family members, friends, and  
38 external support systems, through electronic means, as provided by  
39 paragraphs (2) and (3) of this subsection, during times of public  
40 emergency; and include a budget outlining the projected costs  
41 associated with the purchase, maintenance, and replacement of  
42 equipment, technology, and licenses pursuant to this paragraph; and

43 (5) provide for the facility to employ a sufficient number of  
44 qualified staff to train and daily assist residents in successfully  
45 accessing and using the technology and equipment acquired  
46 pursuant to paragraph (4) of this subsection for the purposes of  
47 engaging in face-to-face or verbal/auditory contact and  
48 communication with other residents, family members, friends, or

1 external support systems, through electronic means, as provided by  
2 paragraphs (2) and (3) of this subsection; and include a budget  
3 outlining the projected costs associated with the hiring and retention  
4 of such staff or the training of existing staff to perform these tasks.

5 d. A long-term care facility shall:

6 (1) prepare and submit an isolation prevention plan to the  
7 department within 30 days after the enactment of this act, regardless  
8 of whether emergency rules and regulations have been adopted  
9 pursuant to subsection f. of this section;

10 (2) review and revise the plan: (a) immediately following the  
11 adoption of emergency rules and regulations pursuant to subsection  
12 f. of this section if such rules and regulations were not in effect at  
13 the time of the initial submission pursuant to paragraph (1) of this  
14 subsection; and (b) on at least a biennial basis after the plan's initial  
15 approval and implementation pursuant to subsection e. of this  
16 section; and

17 (3) submit a revised plan to the department within 10 days after  
18 making any material change thereto.

19 e. (1) Within 30 days after receipt of a proposed or revised  
20 plan submitted pursuant to subsection d. of this section, the  
21 department shall review and either approve or conditionally approve  
22 the plan. The department shall approve the plan if it complies with  
23 the provisions of this act and the rules and regulations adopted  
24 pursuant thereto, to the extent that such rules and regulations have  
25 been adopted. If the department conditionally approves the plan, it  
26 shall state, in writing, the reasons for the conditional approval and  
27 the revisions that must be made to the plan in order to ensure that it  
28 complies with the act and the rules and regulations adopted  
29 pursuant thereto. The long-term care facility shall adopt, and shall  
30 implement the plan in accordance with, any mandatory revisions  
31 that are identified by the department pursuant to this paragraph. If  
32 the department does not respond to the submission within the 30-  
33 day timeframe provided by this subsection, the proposed or revised  
34 plan shall be deemed to have been approved on a non-conditional  
35 basis, and the facility shall proceed to implement the plan without  
36 change.

37 (2) Notwithstanding the provisions of this subsection to the  
38 contrary, if a plan is submitted to the department for review during  
39 a time of documented public emergency, the plan shall be deemed  
40 to be tentatively approved as of the date of its submission to the  
41 department, and the plan shall be put into immediate effect, pending  
42 the department's final conditional or non-conditional approval  
43 pursuant to paragraph (1) of this subsection.

44 f. Within 30 days after the enactment of this act, and  
45 notwithstanding the provisions of the "Administrative Procedure  
46 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
47 Commissioner of Health shall, immediately upon filing proper  
48 notice with the Office of Administrative Law, adopt rules and

1 regulations as may be necessary to implement the provisions of this  
2 act. The rules and regulations adopted pursuant this section shall  
3 remain in effect for a period of not more than one year after the date  
4 of filing and, thereafter, shall be adopted, amended, or readopted by  
5 the commissioner in accordance with the requirements of the  
6 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
7 seq.).

8  
9 2. This act shall take effect immediately.

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12 STATEMENT

13  
14 This bill would require the Department of Health to implement  
15 and oversee an Isolation Prevention Project in long-term care  
16 facilities that would be operable during public emergencies.

17 At a minimum, the Isolation Prevention Project is to require each  
18 long-term care facility in the State to adopt and institute a written  
19 isolation prevention plan and have appropriate technology, staff,  
20 and other capabilities in place to prevent the facility’s residents  
21 from becoming isolated during public emergencies.

22 The isolation prevention plan adopted by each long-term care  
23 facility is to:

24 1) authorize residents of the facility to continue to engage in in-  
25 person contact and communication with other facility residents and  
26 with family members, friends, and other external support systems  
27 during a public emergency, to the extent that such in-person contact  
28 remains consistent with the circumstances of the public emergency,  
29 the orders that have been implemented to address that public  
30 emergency, and the facility’s outbreak response plan. The plan is to  
31 provide that, if in-person contact and communication is physically  
32 impossible or is deemed to pose a danger to the facility’s residents,  
33 due to environmental or other factors or circumstances resulting  
34 from the public emergency, or if in-person contact is officially  
35 limited or prohibited by the terms of the facility’s communicable  
36 disease outbreak response plan or by the orders that are  
37 implemented to address the emergency, as in the case of social  
38 distancing requirements imposed in response to the COVID-19  
39 outbreak, residents will be required to adhere to applicable social  
40 distancing guidelines or requirements or other official limitations or  
41 prohibitions imposed on in-person contact and communication, as  
42 appropriate, but will remain authorized to engage in contact and  
43 communication by alternative electronic means, as provided by the  
44 bill;

45 2) authorize residents of the facility, including residents who  
46 may be physically isolated as a result of the implementation of the  
47 facility’s outbreak response plan, to engage in face-to-face or  
48 verbal/auditory contact and communication with other facility

1 residents and with family members, friends, and other external  
2 support systems during a public emergency, through the use of  
3 electronic or virtual means and methods, including, but not limited  
4 to, computer technology, the Internet, social media,  
5 videoconferencing, and other innovative technological means or  
6 methods;

7 3) provide for residents of the facility who have disabilities that  
8 impede their ability to communicate, including, but not limited to,  
9 residents who are blind, deaf, or deaf-blind, residents who have  
10 Alzheimer's disease or other related dementias, and residents who  
11 have developmental disabilities, to be given access to assistive and  
12 supportive technology as may be necessary to facilitate the  
13 residents' face-to-face or verbal/auditory contact and  
14 communication with other residents, family members, friends, and  
15 other external support systems, through electronic means;

16 4) provide for the facility to preemptively acquire, and to  
17 engage in the ongoing maintenance and replacement of, computers,  
18 videoconferencing equipment, distance-based communications  
19 technology, assistive and supportive technology and devices, and  
20 other technological equipment and accessories or electronic licenses  
21 as may be necessary to ensure that residents of the facility are able  
22 to engage in face-to-face or verbal/auditory communications with  
23 other facility residents and with family members, friends, and  
24 external support systems, through electronic means, during times of  
25 public emergency; and include a budget outlining the projected  
26 costs associated with the purchase, maintenance, and replacement of  
27 equipment, technology, and licenses pursuant to this paragraph; and

28 5) provide for the facility to employ a sufficient number of  
29 qualified staff to train and daily assist residents in successfully  
30 accessing and using the technology and equipment acquired by the  
31 facility, pursuant to the bill, for the purposes of engaging in face-to-  
32 face or verbal/auditory contact and communication with other  
33 residents, family members, friends, or external support systems,  
34 through electronic means; and include a budget outlining the  
35 projected costs associated with the hiring and retention of such staff  
36 or the training of existing staff to perform these tasks.

37 Due to the current COVID-19 public health emergency and the  
38 resulting threat of isolation that is now being faced by the residents  
39 of long-term care facilities, the bill would require the Commissioner  
40 of Health to adopt rules and regulations, on an emergency basis, to  
41 implement its provisions. Such rules and regulations are to be  
42 adopted within 30 days after the date of the bill's enactment,  
43 notwithstanding the provisions of the "Administrative Procedure  
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary.

45 A long-term care facility will be required to prepare and submit  
46 an isolation prevention plan to the department, within 30 days after  
47 the bill's enactment, regardless of whether the department has  
48 finalized the emergency adoption of rules and regulations pursuant

1 to the bill's provisions. To the extent necessary, the plan is to be  
2 revised and reapproved following the commissioner's adoption of  
3 emergency rules and regulations. The long-term care facility will  
4 also be required to review and revise the plan on at least a biennial  
5 basis after the plan is initially approved and implemented. Any  
6 revised plan is to be submitted to the department for approval  
7 within 10 days after material changes are made thereto.

8 Within 30 days after receipt of a proposed or revised plan  
9 submitted under the bill, the department will be required to review  
10 and either approve or conditionally approve the plan. The  
11 department is to approve the plan, so long as it complies with the  
12 provisions of the bill and the rules and regulations adopted pursuant  
13 thereto, to the extent that those rules and regulations have been  
14 adopted. If the department conditionally approves the plan, it will  
15 be required to state, in writing, the reasons for the conditional  
16 approval and the revisions that are to be made to the plan in order to  
17 ensure that it complies with the bill and the rules and regulations  
18 adopted pursuant thereto. The long-term care facility will be  
19 required to adopt, and implement the plan in accordance with, any  
20 mandatory revisions that are identified by the department in a  
21 conditional approval. If the department does not respond to the  
22 submission within 30 days, the proposed or revised plan will be  
23 deemed to have been approved on a non-conditional basis, and the  
24 facility may proceed to implement the plan without change.

25 Notwithstanding the bill's provisions to the contrary, if a plan is  
26 submitted to the department for review during a time of documented  
27 public emergency, as is currently the case with the COVID-19  
28 pandemic, the plan will be deemed to be tentatively approved as of  
29 the date of its submission to the department, and the plan is to be  
30 put into immediate effect, pending the department's final  
31 conditional or non-conditional approval pursuant to the procedures  
32 established by the bill.