

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4007

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED AUGUST 24, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

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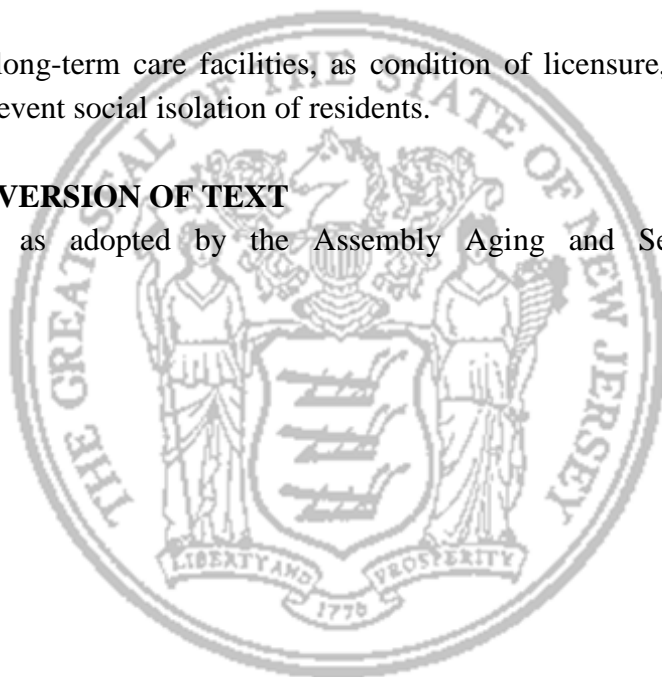
**Assemblymen Benson, Mukherji, Assemblywoman Reynolds-Jackson,
Assemblymen Johnson, Tully, Assemblywomen Swain, Chaparro, Pinkin,
Assemblymen Mazzeo, Moen, Zwicker, Assemblywoman Jasey,
Assemblymen Space, Wirths, Armato and Assemblywoman Downey**

SYNOPSIS

Requires long-term care facilities, as condition of licensure, to implement policies to prevent social isolation of residents.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Aging and Senior Services Committee.



(Sponsorship Updated As Of: 9/24/2020)

1 AN ACT concerning the implementation, by long-term care
2 facilities, of policies, protocols, and procedures to prevent the
3 social isolation of facility residents and supplementing Title 26
4 of the Revised Statutes.

5

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

8

9 1. As used in this act:

10 “Cohorting” means the same as that term is defined by section 1
11 of P.L.2019, c.243 (C.26:2H-12.87).

12 “Commissioner” means the Commissioner of Health.

13 “Department” means the Department of Health.

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

18 “Religious and recreational activities” includes any religious,
19 social, or recreational activity that is consistent with the resident’s
20 preferences and choosing, regardless of whether the activity is
21 coordinated, offered, provided, or sponsored by facility staff or by
22 an outside activities provider.

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

25 “Social isolation” means a state of isolation wherein a resident of
26 a long-term care facility is unable to engage in social interactions
27 and religious and recreational activities with other facility residents
28 or with family members, friends, and external support systems.

29

30 2. a. The Department of Health shall require each long-term
31 care facility in the State, as a condition of facility licensure, to
32 adopt and implement written policies, provide for the practical
33 availability of technology to facility residents, and ensure that
34 appropriate staff and other capabilities are in place, to prevent the
35 social isolation of facility residents.

36 b. The social isolation prevention policies adopted by each
37 long-term care facility pursuant to this section shall:

38 (1) authorize, and include specific protocols and procedures to
39 encourage and enable, residents of the facility to engage in in-
40 person contact, communications, and religious and recreational
41 activities with other facility residents and with family members,
42 friends, and other external support systems, except when such in-
43 person contact, communication, or activities are prohibited,
44 restricted, or limited, as permitted by federal and State statute, rule,
45 or regulation;

46 (2) authorize, and include specific protocols and procedures to
47 encourage and enable, residents to engage in face-to-face or
48 verbal/auditory-based contact, communication, and religious and

1 recreational activities with other facility residents and with family
2 members, friends, and other external support systems, through the
3 use of electronic or virtual means and methods, including, but not
4 limited to, computer technology, the Internet, social media,
5 videoconferencing, and other innovative technological means or
6 methods, whenever such residents are subject to restrictions that
7 limit their ability to engage in in-person contact, communications,
8 or religious and recreational activities as authorized by paragraph
9 (1) of this subsection;

10 (3) provide for residents of the facility who have disabilities that
11 impede their ability to communicate, including, but not limited to,
12 residents who are blind, deaf, or deaf-blind, residents who have
13 Alzheimer's disease or other related dementias, and residents who
14 have developmental disabilities, to be given access to assistive and
15 supportive technology as may be necessary to facilitate the
16 residents' engagement in face-to-face or verbal/auditory-based
17 contact, communications, and religious and recreational activities
18 with other residents, family members, friends, and other external
19 support systems, through electronic means, as provided by
20 paragraph (2) of this subsection;

21 (4) include specific administrative policies, procedures, and
22 protocols governing: (a) the acquisition, maintenance, and
23 replacement of computers, videoconferencing equipment, distance-
24 based communications technology, assistive and supportive
25 technology and devices, and other technological equipment,
26 accessories, and electronic licenses, as may be necessary to ensure
27 that residents are able to engage in face-to-face or verbal/auditory-
28 based contact, communications, and religious and recreational
29 activities with other facility residents and with family members,
30 friends, and external support systems, through electronic means, in
31 accordance with the provisions of paragraphs (2) and (3) of this
32 subsection; (b) the use of environmental barriers and other controls
33 when the equipment and devices acquired pursuant to this section
34 are in use, especially in cases where the equipment or devices are
35 likely to become contaminated with bodily substances, are touched
36 frequently with gloved or ungloved hands, or are difficult to clean;
37 and (c) the regular cleaning of the equipment and devices acquired
38 pursuant to this paragraph and any environmental barriers or other
39 physical controls used in association therewith;

40 (5) require appropriate staff to assess and regularly reassess the
41 individual needs and preferences of facility residents with respect to
42 the residents' participation in social interactions and religious and
43 recreational activities, and include specific protocols and
44 procedures to ensure that the quantity of devices and equipment
45 maintained on-site at the facility remains sufficient, at all times, to
46 meet the assessed social and activities needs and preferences of
47 each facility resident;

1 (6) require appropriate staff, upon the request of a resident or
2 the resident's family members or guardian, to develop an
3 individualized visitation plan for the resident, which plan shall: (a)
4 identify the assessed needs and preferences of the resident and any
5 preferences specified by the resident's family members; (b) address
6 the need for a visitation schedule, and establish a visitation schedule
7 if deemed to be appropriate; (c) describe the location and modalities
8 to be used in visitation; and (d) describe the respective
9 responsibilities of staff, visitors, and the resident when engaging in
10 visitation pursuant to the individualized visitation plan;

11 (7) include specific policies, protocols, and procedures
12 governing a resident's requisition, use, and return of devices and
13 equipment maintained pursuant to this act, and require appropriate
14 staff to communicate those policies, protocols, and procedures to
15 residents; and

16 (8) designate at least one member of the therapeutic recreation
17 or activities department, or, if the facility does not have such a
18 department, designate at least one senior staff member, as
19 determined by facility management, to train other appropriate
20 facility employees, including, but not limited to, activities
21 professionals and volunteers, social workers, occupational
22 therapists, and therapy assistants, to provide direct assistance to
23 residents, upon request and on an as-needed basis, as necessary to
24 ensure that each resident is able to successfully access and use, for
25 the purposes specified in paragraphs (2) and (3) of this subsection,
26 the technology, devices, and equipment acquired pursuant to this
27 paragraph.

28 c. The department shall distribute civil monetary penalty
29 (CMP) funds, as approved by the federal Centers for Medicare and
30 Medicaid Services, and any other available federal and State funds,
31 upon request, to facilities for communicative technologies and
32 accessories needed for the purposes of this act.

33

34 3. a. Whenever the department conducts an inspection of a
35 long-term care facility, the department's inspector shall determine
36 whether the long-term facility is in compliance with the provisions
37 of this act and the policies, protocols, and procedures adopted
38 pursuant thereto.

39 b. In addition to any other applicable penalties provided by
40 law, a long-term care facility that fails to comply with the
41 provisions of this act or properly implement the policies, protocols,
42 and procedures adopted pursuant thereto:

43 (1) shall be liable to pay an administrative penalty, the amount
44 of which shall be determined in accordance with a schedule
45 established by department regulation, which schedule shall provide
46 for an enhanced administrative penalty in the case of a repeat or
47 ongoing violation; and

1 (2) may be subject to adverse licensure action, as deemed by the
2 department to be appropriate.

3 c. Whenever a complaint received or an investigation
4 conducted by the Office of the State Long-Term Care Ombudsman
5 discloses evidence that a long-term care facility has failed to
6 comply with the provisions of this act or to properly implement the
7 policies, protocols, and procedures adopted pursuant thereto, the
8 Office of the State Long-Term Care Ombudsman shall refer the
9 matter to the department as provided by section 7 of P.L.1977,
10 c.239 (C.52:27G-7) and, notwithstanding such referral, may take
11 any other appropriate investigatory or enforcement action, with
12 respect to the matter, as may be authorized by P.L.1977, c.239
13 (C.52:27G-1 et seq.).
14

15 4. Within 60 days after the enactment of this act, and
16 notwithstanding the provisions of the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
18 Commissioner of Health shall, immediately upon filing proper
19 notice with the Office of Administrative Law, adopt rules and
20 regulations as may be necessary to implement the provisions of this
21 act. The rules and regulations shall include, but need not be limited
22 to, minimum standards for the social isolation prevention policies to
23 be adopted pursuant to section 2 of this act and a penalty schedule
24 to be used pursuant to section 3 of this act. The rules and
25 regulations adopted pursuant to this section shall remain in effect
26 for a period of not more than one year after the date of filing and,
27 thereafter, shall be adopted, amended, or readopted by the
28 commissioner in accordance with the requirements of the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
30 1 et seq.).