

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4282 and 4150

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED SEPTEMBER 17, 2020

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Downey, Swain, Assemblymen Tully, Mejia, Senators Lagana, Pou and
Greenstein**

SYNOPSIS

Requires long-term care facilities and hospitals to maintain minimum supply of personal protective equipment.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.

(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning personal protective equipment in long-term
2 care facilities and hospitals and supplementing Title 26 of the
3 Revised Statutes.

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

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8 1. a. Each long-term care facility shall make a good faith effort
9 to maintain an adequate emergency stockpile of personal protective
10 equipment necessary to meet the facility's need for personal
11 protective equipment for:

12 (1) In the case of a facility that is part of a system that owns or
13 operates eight or more facilities, 30 days;

14 (2) In the case of a facility that is part of a system that owns or
15 operates fewer than eight facilities, 60 days; and

16 For the purposes of meeting the requirements of this subsection,
17 a facility that is not part of a system or that is part of a system that
18 owns or operates fewer than eight facilities may enter into a
19 collaborative agreement with other facilities or with one or more
20 systems, which collaborative agreement shall be deemed to render
21 the facility part of a system comprising of the health care facility
22 and any other health care facilities that are party to the collaborative
23 agreement or that are part of a system that is party to the
24 collaborative agreement. The collaborative agreement shall, at a
25 minimum, include protocols for sharing personal protective
26 equipment among facilities that are part of the system established
27 pursuant to the collaborative agreement.

28 b. Each general acute care hospital shall make a good faith
29 effort to maintain at least a 90-day emergency stockpile of personal
30 protective equipment at all times. A system comprising multiple
31 hospitals may count the total emergency stockpile of personal
32 protective equipment available at all hospitals that are part of that
33 system when determining whether a hospital is in compliance with
34 the personal protective equipment emergency stockpile
35 requirements set forth in this subsection, provided that the total
36 quantity of personal protective equipment available throughout the
37 system is equivalent to at least a 90-day emergency supply of
38 personal protective equipment for each hospital that is a part of the
39 system.

40 c. For the purposes of this act, any determination as to whether
41 a long-term care facility has made a good faith effort to maintain a
42 minimum stockpile of personal protective equipment consistent
43 with the requirements of subsection a. of this section or whether a
44 hospital has made a good faith effort to maintain a minimum
45 stockpile of personal protective equipment consistent with the
46 requirements of subsection b. of this section shall take into
47 consideration the current state of the supply chain of personal

1 protective equipment in the State, including, but not limited to, unit
2 cost, recent price increases, overall availability, and delays in
3 shipping times.

4 d. In determining the quantity of personal protective equipment
5 a long-term care facility or hospital will need to maintain in order to
6 meet the requirements of this section, the facility or hospital shall:

7 (1) take into account prevailing conditions in the State that may
8 affect the need for and availability of personal protective
9 equipment;

10 (2) take into account anticipated surges, over the next 90 days,
11 in the need for personal protective equipment at that facility or
12 hospital and at other facilities or hospitals that are part of the same
13 system as the facility or hospital; and

14 (3) utilize any burn rate calculator or other tool as the
15 Department of Health may designate for use in determining the
16 anticipated need for personal protective equipment.

17 Each facility and hospital shall immediately reevaluate the
18 adequacy of its stockpile of personal protective equipment upon any
19 declaration of a state of emergency by the Governor or a public
20 health emergency pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) in
21 response to an outbreak, epidemic, or pandemic involving an
22 infectious disease, and shall acquire such additional supplies of
23 personal protective equipment as it determines are necessary to
24 meet increases in the need for and use of personal protective
25 equipment during the state of emergency or public health
26 emergency.

27 e. The Department of Health may impose fines or other
28 administrative remedies against any facility or hospital that violates
29 the requirements of this section.

30 f. As used in this section:

31 "General acute care hospital" means a general acute care hospital
32 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

33 "Infectious disease" means a disease caused by a living organism
34 or other pathogen, including a fungus, bacteria, parasite, protozoan,
35 virus, or prion. An infectious disease may, or may not, be
36 transmissible from person to person, animal to person, or insect to
37 person.

38 "Long-term care facility" means a nursing home, assisted living
39 residence, comprehensive personal care home, residential health
40 care facility, or dementia care home licensed pursuant to P.L.1971,
41 c.136 (C.26:2H-1 et seq.).

42 "Personal protective equipment" means any items commonly used
43 to protect an individual from bacterial or viral infections, including,
44 but not limited to, disinfecting wipes, disposable gloves, disposable
45 gowns, face shields, N95 face masks, surgical masks, or parts thereof.

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47 2. The Commissioner of Health may adopt rules and

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1 regulations, in accordance with the “Administrative Procedure Act,”
2 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
3 the provisions of this act.

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5 3. This act shall take effect immediately.