

[First Reprint]

ASSEMBLY, No. 4476

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 30, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Co-Sponsored by:

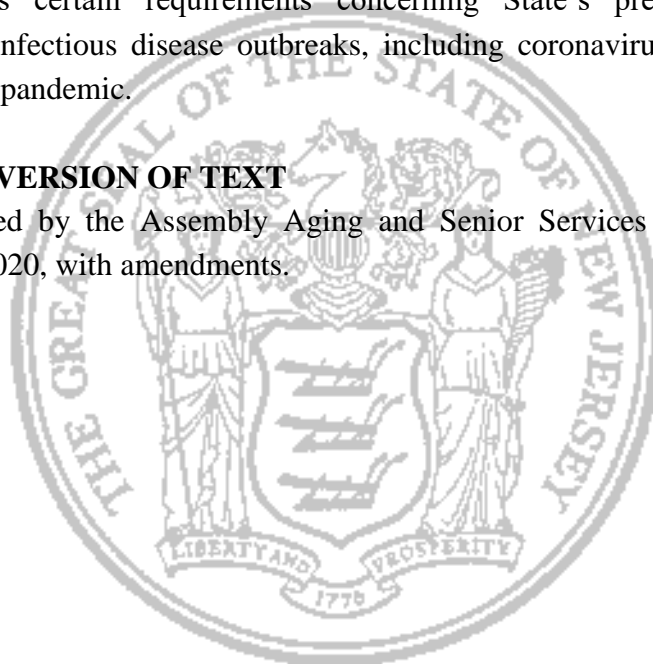
Assemblyman Benson, Assemblywomen Speight, Dunn, Assemblyman Caputo, Assemblywomen McKnight, DiMaso, Reynolds-Jackson and Assemblyman Johnson

SYNOPSIS

Establishes certain requirements concerning State's preparedness and response to infectious disease outbreaks, including coronavirus disease 2019 (COVID-19) pandemic.

CURRENT VERSION OF TEXT

As reported by the Assembly Aging and Senior Services Committee on August 24, 2020, with amendments.



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

1 AN ACT concerning the State's response to outbreaks, epidemics,
2 and pandemics involving infectious diseases and supplementing
3 Title 26 of the Revised Statutes and P.L.2005, c.222 (C.26:13-1
4 et seq.).

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

8
9 1. a. There is established in the Department of Health the
10 Long-Term Care Emergency Operations Center (LTCEOC), which
11 shall serve as the centralized command and resource center for
12 long-term care facility response efforts and communications during
13 ¹any hazardous event, including, but not limited to,¹ infectious
14 disease outbreaks, epidemics, and pandemics affecting or likely to
15 affect one or more long-term care facilities. The LTCEOC shall
16 **¹[build off]** enhance¹ and integrate with existing State, county, and
17 local emergency response systems. The LTCEOC shall be
18 established and operational within 30 days after the effective date of
19 this act.

20 b. The Department of Health shall have primary responsibility
21 for the operations of the LTCEOC, but the Department of Human
22 Services and other appropriate State agencies shall provide any staff
23 support as shall be requested by the Commissioner of Health. The
24 Commissioner of Health may additionally contract with a third
25 party entity to provide staffing services as needed. At a minimum,
26 the Commissioner of Health shall ensure that the LTCEOC has on
27 call at all times such appropriate staff and consultants as are needed
28 to respond to an emerging or ongoing infectious disease outbreak,
29 epidemic, or pandemic affecting or likely to affect one or more
30 long-term care facilities, including representatives from nursing
31 homes, long-term care facilities, nursing home and long-term care
32 facility staff, ¹general acute care hospitals, long-term care hospitals,
33 psychiatric hospitals, home health and hospice agencies, Programs
34 of All-Inclusive Care for the Elderly (PACE) organizations,¹ county
35 and local boards of health, the Office of the New Jersey Long-Term
36 Care Ombudsman, and the Office of Emergency Management in the
37 New Jersey State Police, as well as experts in public health,
38 infection control, elder affairs, disability services, emergency
39 response, and medical transportation.

40 c. The LTCEOC shall establish ongoing, direct communication
41 mechanisms and feedback loops, including an advisory council, to
42 obtain real-time input from the owners and staff of long-term care
43 facilities, unions, advocates representing residents of long-term care
44 facilities and their families, individuals with expertise in the needs

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASE committee amendments adopted August 24, 2020.

1 of people with specialized health care needs, and such other
2 stakeholders as the Commissioner of Health deems necessary and
3 appropriate during an infectious disease outbreak, epidemic, or
4 pandemic affecting or likely to affect one or more long-term care
5 facilities.

6 d. The LTCEOC shall designate a staff person from the
7 Department of Health who shall serve as the designated liaison to
8 the long-term care industry during an infectious disease outbreak,
9 epidemic, or pandemic affecting or likely to affect one or more long
10 term care facilities.

11 e. The LTCEOC shall provide guidance to the State and to the
12 Office of Emergency Management to ensure that: supplies needed
13 to respond to an outbreak, epidemic, or pandemic involving an
14 infectious disease are acquired and distributed in an effective and
15 efficient manner among long-term care facilities; critical staffing
16 shortages in long-term care facilities are identified and resolved
17 quickly and effectively; issues that would jeopardize the health or
18 safety of staff or residents of a long-term care facility, or that would
19 impede or disrupt efforts to respond to an outbreak, epidemic, or
20 pandemic involving an infectious disease, are promptly identified
21 and addressed in an appropriate manner; and all policies and
22 guidance are effectively communicated to all long-term care
23 industry stakeholders to maximize the coordination and
24 effectiveness of the State's response to an outbreak, epidemic, or
25 pandemic involving an infectious disease affecting one or more
26 long-term care facilities.

27 f. The LTCEOC may develop a data dashboard to collect and
28 analyze real-time issues and challenges occurring in long-term care
29 facilities during an outbreak, epidemic, or pandemic involving an
30 infectious disease, as well as emerging issue areas and items of
31 concern, so as to enable the appropriate authorities to direct a
32 proactive response to those challenges and issues before the
33 challenges and issues develop into matters of critical concern. Any
34 dashboard developed by the LTCEOC may build from or
35 incorporate materials from other data dashboards or similar features
36 developed and maintained by any other entity of State, county, or
37 local government, to the extent necessary to avoid duplication of
38 work, facilitate communications and data sharing, and ensure the
39 integrity, comprehensiveness, and utility of information included in
40 the LTCEOC data dashboard.

41 g. The LTCEOC shall develop guidance and best practices in
42 response to an outbreak, epidemic, or pandemic involving an
43 infectious disease concerning, as appropriate, infection control,
44 symptom monitoring, and the use of telemedicine and telehealth to
45 provide contactless health care services. '1The guidance and best
46 practices shall be transmitted to appropriate State, county, and local
47 departments and agencies for dissemination to industry and to
48 providers. The guidance and best practices may additionally be

1 transmitted to federal agencies coordinating the national response to
2 the outbreak, epidemic, or pandemic, if any, including, but not
3 limited to, the federal Centers for Disease Control and Prevention,
4 the federal Centers for Medicare and Medicaid Services, and the
5 U.S. Department of Health and Human Services, as well as such
6 international bodies, including the World Health Organization, as
7 may be involved with the response to the outbreak, epidemic, or
8 pandemic.】¹

9 h. As used in sections 1 through 3 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), “infectious disease”
11 means a disease caused by a living organism or other pathogen,
12 including a fungus, bacteria, parasite, protozoan, virus, or prion.
13 An infectious disease may, or may not, be transmissible from
14 person to person, animal to person, or insect to person.
15

16 2. a. No later than 90 days after the effective date of this act,
17 the Department of Health shall ¹, in consultation with the
18 Emergency Medical Services Task Force,¹ institute a regional
19 medical coordination center model for disaster response to facilitate
20 regional capacity coordination and communication across county
21 and local boards of health, hospitals, long-term care facilities,
22 emergency medical services providers and other first responders,
23 and entities providing medical transportation services, in the event
24 of a public health emergency involving an outbreak, epidemic, or
25 pandemic involving an infectious disease. At a minimum, the
26 model shall include a system for ¹**【pairing】** engaging the Level 1
27 trauma center in the region with¹ long-term care facilities,
28 ¹federally qualified healthcare centers, home health agencies,
29 hospice providers, medical transportation providers,¹ emergency
30 medical services providers and other first responders, and entities
31 providing medical transportation services ¹**【with a hospital located**
32 **in the same region for the purpose of providing the long-term care**
33 **facility, emergency medical services provider or other first**
34 **responder, and medical transportation provider with consultative**
35 **services regarding infectious diseases, infection control, and**
36 **emergency resource coordination, as well as support testing as may**
37 **be needed】** in its associated region. The Regional Level 1 Trauma
38 Center and its associated regional medical coordination center shall
39 make available their various clinical and non-clinical content
40 experts and services are available for consultation and support to
41 facilitate the implementation of evidence-based best practices and
42 informed decision making¹.

43 b. The department shall identify appropriate sources of State,
44 federal, and private funding to facilitate the implementation of this
45 section, including, but not limited to, any funding or other support
46 as may be available through the Federal Emergency Management
47 Agency.

1 3. a. No later than 60 days after the effective date of this act,
2 each long-term care facility shall develop plans, in coordination
3 with the LTCEOC established pursuant to section 1 of this act, to
4 maintain mandatory long-term care facility staffing levels by
5 replacing facility staff members who are required to isolate or
6 quarantine because of exposure to or infection with an infectious
7 disease, particularly during periods when there is an outbreak,
8 epidemic, or pandemic involving the infectious disease. ¹Long-
9 term care facility plans may include, but shall not be limited to:

10 (1) establishing staffing teams to provide temporary interim
11 support in the event of staff shortages at the facility, which teams
12 may be developed and operated in coordination with a general acute
13 care hospital;

14 (2) executing contracts with other long-term care facilities and
15 with general acute care hospitals located in the same region to
16 provide staff support on an as-needed basis;

17 (3) utilizing the National Guard or other resources as may be
18 deployed or otherwise made available to respond to an outbreak,
19 epidemic, or pandemic involving the infectious disease; and

20 (4) utilizing the services of qualified volunteers, within the
21 scope of the volunteers' training and experience, which volunteer
22 services are coordinated through the LTCEOC. ¹

23 b. During an outbreak, epidemic, or pandemic of an infectious
24 disease affecting or likely to affect long-term care facilities, the
25 Department of Health shall require long-term care facilities to
26 provide the LTCEOC with an outline of the facility's regular
27 staffing requirements, and to promptly notify the LTCEOC in the
28 event any staff member tests positive for the infectious disease or is
29 required to isolate or quarantine based on infection with or exposure
30 to the infectious disease. The LTCEOC shall utilize the data
31 submitted to it pursuant to this subsection to identify staffing needs
32 throughout the State, anticipate potential staffing shortages, and
33 develop strategies to promptly respond to anticipated shortages.

34 c. During an outbreak, epidemic, or pandemic involving an
35 infectious disease, the LTCEOC shall establish a system for
36 communicating test results for the infectious disease among long-
37 term care facilities for individuals who are employed or providing
38 services at multiple facilities, provided that such system is limited
39 to ensuring facilities are on notice of which employees of the
40 facility have tested positive for the infectious disease and otherwise
41 includes safeguards against the unlawful disclosure of personal
42 identifying information and private health information. Facilities
43 receiving information about an employee through the system
44 established under this subsection shall not use or disseminate the
45 reported information for any purpose other than to ensure the
46 facility's staffing needs are met and to identify and prevent against
47 the possible transmission of the infectious disease at the facility
48 through possible contact with the identified employee.

1 4. The Department of Health shall develop plans for the
2 placement of patients who acquire an infectious disease during an
3 outbreak, epidemic, or pandemic involving the infectious disease
4 but who do not require hospitalization, which plan shall apply in the
5 event of a surge in cases of the infectious disease that exceeds safe
6 capacity levels in long-term care facilities. At a minimum, the
7 placement plan shall include protocols for the rapid establishment
8 of at least three regional hubs capable of accepting patients who
9 have, and are capable of transmitting, the infectious disease and
10 who do not require hospitalization, which hubs shall comply with
11 State and federal guidance regarding infection control practices
12 related to the infectious disease. In the event of a surge in cases of
13 the infectious disease, the LTCEOC shall actively monitor capacity
14 levels at long-term care facilities and at any regional hubs
15 established under this section, and shall take steps to direct patient
16 placements as necessary to manage capacity levels and ensure, to
17 the extent possible, that no regional hub or long-term care facility
18 exceeds safe capacity levels.

19
20 5. a. No later than 30 days after the effective date of this act,
21 the Department of Health shall develop a plan and provide guidance
22 to long-term care facilities on how the facilities can comply with
23 and implement federal guidance on accepting new residents at the
24 facility and allowing in-person visits with residents of the facility
25 during the ongoing coronavirus disease 2019 (COVID-19)
26 pandemic, which guidance shall be developed in consultation with
27 the LTCEOC established pursuant to section 1 of this act. The
28 guidance shall, at a minimum:

29 (1) require each long-term care facility to have:

30 (a) adequate isolation rooms or isolation capabilities to allow
31 for effective cohorting of both residents and staff;

32 (b) an adequate minimum supply of personal protective
33 equipment and test kits for COVID-19 on hand; and

34 (c) sufficient staff, which may be augmented through
35 contingency plans and training programs, to enable the facility to
36 fully meet its responsibilities to residents as well as to ensuring the
37 safety of staff and residents;

38 (2) define acceptable models of cohorting, appropriate staffing
39 levels and staffing ratios, standards and protocols for distribution
40 and use of personal protective equipment, and standards and
41 protocols for COVID-19 testing; and

42 (3) establish standards and procedures for ensuring distribution
43 of personal protective equipment and COVID-19 test kits to
44 facilities that are unable to obtain them on their own.

45 b. The department shall establish a centralized online resource
46 to answer frequently asked questions and provide educational
47 sessions, focus groups, and support services to the long-term care

1 industry in implementing the guidance developed pursuant to
2 subsection a. of this section.

3 c. Each long-term care facility in the State shall submit to the
4 department, prior to admitting new residents to the facility and
5 allowing in-person visits with residents of the facility to resume, an
6 attestation of compliance with federal requirements and the
7 guidelines issued pursuant to subsection a. of this section. If, at any
8 time after resuming new admissions and in-person visitations, the
9 long-term care facility identifies issues or encounters circumstances
10 that require a modified approach to new admissions and in-person
11 visits or that require ending new admissions or in-person visits, the
12 facility shall promptly report those issues or circumstances to the
13 LTCEOC.

14 d. ¹~~【No general acute care hospital shall discharge any patient~~
15 ~~to a long-term care facility during the COVID-19 pandemic unless~~
16 ~~the facility has】~~ The Department of Health shall establish a
17 mechanism by which hospitals can identify long-term care facilities
18 that have¹ submitted an attestation to the department pursuant to
19 subsection c. of this section and ¹~~【is】~~ are¹ currently accepting new
20 residents.

21 e. The LTCEOC shall establish a compliance check system
22 comprising, as appropriate, testing, assistance, and clinical teams,
23 to:

24 (1) periodically evaluate the ability of long-term care facilities to
25 resume admitting new residents and allow in-person visits with
26 residents; and

27 (2) render assistance to long-term care facilities as needed,
28 including staff support and assistance in obtaining personal
29 protective equipment, COVID-19 testing kits, or other necessary
30 resources.

31 f. In developing guidance pursuant to subsection a. of this
32 section, the department shall plan for potential or anticipated
33 changes in federal policy that could affect the ability of long-term
34 care facilities, or health care professionals in general, to respond to
35 the COVID-19 pandemic, including changes that could restrict
36 professional scope of practice or coverage under a health benefits
37 plan for services provided to long-term care facility residents.
38

39 6. a. No later than 30 days after the effective date of this act,
40 the Department of Health shall develop standards and protocols for
41 COVID-19 testing in long-term care facilities in order to minimize
42 the risk that staff and residents of long-term care facilities may be
43 exposed to COVID-19 through interaction with other persons
44 present at the facility.

45 b. The standards and protocols developed pursuant to
46 subsection a. of this section shall:

47 (1) prioritize use of the most effective forms and methods of
48 testing as are currently available;

1 (2) provide guidance for long-term care facilities to implement
2 comprehensive testing using the facility's own resources and
3 funding;

4 (3) establish methods to avoid duplicative testing of staff
5 members employed by or providing professional services at more
6 than one long-term care facility, including facilitating
7 communication among facilities employing or utilizing the services
8 of the same professionals;

9 (4) require long-term care facilities to provide on-site testing
10 services to facility staff at a frequency as shall be required by the
11 Department of Health;

12 (5) include protocols for establishing mobile testing units ¹['],
13 supported by a general acute care hospital, ¹'] on an expedited basis
14 when needed to respond to COVID-19 testing demands; and

15 (6) in the event that it becomes necessary to establish routine
16 testing at a long-term care facility, allow for use of the least
17 invasive, most cost-effective method of testing that is consistent
18 with department guidelines and best practices for infection control
19 and reducing the risk of COVID-19 transmission.

20 c. The standards and protocols developed pursuant to
21 subsection a. of this section may include:

22 (1) specific testing requirements based on local infection rates
23 and risk factors;

24 (2) protocols for determining when testing will be limited to
25 those symptomatic for COVID-19, when testing will be mandated
26 for all visitors to a long-term care facility, and when testing will be
27 at the discretion of the long-term care facility;

28 (3) a mechanism for long-term care facilities to partner with a
29 general acute care hospital in the region for the purpose of
30 providing or supporting COVID-19 testing at the long-term care
31 facility; and

32 (4) the establishment of a network of preferred clinical
33 laboratories for the purposes of performing COVID-19 testing.

34 d. The LTCEOC established pursuant to section 1 of this act
35 shall support COVID-19 testing protocols in long-term care
36 facilities through the coordinated distribution of available supplies
37 and other resources to long-term care facilities and by assisting
38 facilities to identify and access available sources of funding.

39 e. The Commissioner of Health, the Commissioner of Human
40 Services, and the Commissioner of Banking and Insurance shall
41 jointly develop strategies to ensure reimbursement of COVID-19
42 tests performed pursuant to this section through health benefits
43 plans, Medicaid and NJ FamilyCare, Medicare, and State and
44 federal funds made available for this purpose.

45
46 7. The Commissioner of Health and the Commissioner of
47 Human Services shall take steps to ensure available and appropriate
48 sources of federal funding provided to states in response to the

1 COVID-19 pandemic are made available to long-term care
2 facilities. The commissioners may condition awards of funding
3 made pursuant to this section on long-term care facilities providing
4 regular reports on how the funding is used, including any evidence
5 as may be needed to confirm the facilities are complying with all
6 terms and conditions that attach to the funding, as well as
7 information concerning steps the facility is taking to improve the
8 facility's preparedness and response to the COVID-19 pandemic,
9 including establishing and updating staff and patient safety and
10 isolation protocols, expanding access to personal protective
11 equipment and COVID-19 testing, and making improvements to the
12 facility's equipment and physical plant that will help prevent the
13 spread of communicable diseases within the facility.

14
15 8. a. No later than 60 days after the effective date of this act,
16 the Department of Health shall coordinate with appropriate State
17 and federal entities to consolidate all State and federal data
18 reporting related to the COVID-19 pandemic through the NJHA
19 PPE, Supply & Capacity Portal maintained by the New Jersey
20 Hospital Association. The department shall migrate the NJHA
21 portal onto department systems and shall communicate the changes
22 made pursuant to this subsection to long-term care facilities. The
23 department may enter into such agreements with the New Jersey
24 Hospital Association as are necessary to implement the provisions
25 of this subsection.

26 b. No later than 30 days after the effective date of this act, the
27 department shall undertake a review of State, federal, county, and
28 local reporting requirements for long-term care facilities related to
29 COVID-19 and take steps to standardize and consolidate the
30 reporting requirements for the purpose of reducing the
31 administrative demand on the facilities of complying with reporting
32 requirements and improving the utility of the reported data and the
33 ability to share the data across systems, including systems
34 maintained by other State departments and agencies, county and
35 local agencies, and federal authorities.

36 c. No later than 90 days after the effective date of this act, the
37 department shall centralize its internal COVID-19 and long-term
38 care facility data reporting and storage systems for the purpose of
39 improving the utility of the reported data and the ability to share the
40 data across systems, including systems maintained by other State
41 departments and agencies, county and local agencies, and federal
42 authorities charged with responding to the COVID-19 pandemic.
43 At a minimum, the centralized systems shall:

44 (1) incorporate a function that automatically transmits alerts
45 concerning long-term care facilities that report COVID-19 metrics
46 exceeding established thresholds for new COVID-19 cases and
47 COVID-19-related deaths to governmental points-of-contact at
48 departments, agencies, and entities having jurisdiction over the

1 long-term care facility or that are otherwise to be involved in the
2 COVID-19 response at the facility; and

3 (2) receive and compile complaints concerning long-term care
4 facilities received from any other State department or agency,
5 which complaints shall be reviewed by the department on a regular
6 basis for the purpose of identifying and formulating an appropriate
7 response to facilities with chronic, repeat, or acute issues presenting
8 a threat to the health or safety of residents and staff at the facility.

9 d. The department shall provide support to smaller long-term
10 care facilities to assist the facilities in upgrading and enhancing
11 their health information technology systems to allow for ready
12 communication with State, county, and local entities to which the
13 facilities are required to report or with which the facilities are
14 required to communicate regarding COVID-19. Support provided
15 to the facilities under this section shall include, as necessary, staff
16 support, technical assistance, and financial support, including
17 identifying available State, federal, and private sources of funding
18 as may be available to the facilities to upgrade and enhance their
19 health information technology systems.

20
21 ¹9. No later than 18 months after the effective date of this act,
22 the Commissioner of Health shall prepare and submit a report to the
23 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
24 19.1), to the Legislature, concerning the implementation of the
25 provisions of this act and any recommendations for appropriate
26 legislative or administrative actions as may be appropriate to
27 advance or improve the State's infectious disease planning,
28 preparedness, and response.¹

29
30 ¹[9.] 10.¹ This act shall take effect immediately.