ASSEMBLY AGING AND SENIOR SERVICES COMMITTEE

STATEMENT TO

# ASSEMBLY, No. 4476

with committee amendments

# STATE OF NEW JERSEY

DATED: AUGUST 21, 2020

The Assembly Aging and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 4476.

As amended by the committee, this bill establishes certain requirements concerning the State's preparedness and response regarding infectious disease outbreaks, epidemics, and pandemics affecting long-term care facilities. Certain of the requirements established under the bill are specific to the coronavirus disease 2019 (COVID-19) pandemic, other requirements will apply to both the COVID-19 pandemic and to future infectious disease outbreaks, epidemics, and pandemics.

The bill establishes the Long-Term Care Emergency Operations Center (LTCEOC) in the Department of Health (DOH), which will serve as the centralized command and resource center for long-term care facility response efforts and communications during any hazardous event, including, but not limited to, infectious disease outbreaks, epidemics, and pandemics affecting or likely to affect one or more long-term care facilities. The LTCEOC, which is to be established no later than 30 days after the effective date of the bill, is to enhance and integrate with existing emergency response systems.

The DOH will have primary responsibility for the operations of the LTCEOC, but the Department of Human Services and other appropriate State agencies are to provide any staff support requested by the DOH. The DOH may additionally contract with a third party entity to provide staffing services as needed. At a minimum, the LTCEOC will be required to have on call at all times such appropriate staff and consultants as are needed to respond to an emerging or ongoing outbreak, epidemic, or pandemic, including representatives from nursing homes, long-term care facilities, nursing home and long-term care facility staff, general acute care hospitals, long-term care hospitals, psychiatric hospitals, home health and hospice agencies, and Programs of All-Inclusive Care for the Elderly (PACE) organizations, county and local boards of health, the Office of the New Jersey Long-Term Care Ombudsman, and the Office of Emergency management in the New Jersey State Police, as well as experts in public health, infection control, elder affairs, disability services, emergency response, and medical transportation.

The LTCEOC will be required to establish ongoing, direct communication mechanisms and feedback loops, including an advisory council, to obtain real-time input from the owners and staff of long-term care facilities, unions, advocates representing residents of long-term care facilities and their families, individuals with expertise in the needs of people with specialized health care needs, and such other stakeholders as the DOH deems necessary and appropriate during an outbreak, epidemic, or pandemic affecting or potentially affecting long-term care facilities. The LTCEOC will also designate a staff person from the DOH who will serve as designated liaison to the long-term care industry during an outbreak, epidemic, or pandemic.

The LTCEOC will provide guidance to the State and to the Office of Emergency Management to ensure that: supplies needed to respond to an outbreak, epidemic, or pandemic are acquired and distributed in an effective and efficient manner; critical staffing shortages in long-term care facilities are identified and resolved in an effective and efficient manner; issues that would jeopardize the health or safety of staff or residents of a long-term care facility, or that would impede or disrupt efforts to respond to an outbreak, epidemic, or pandemic are promptly identified and appropriately addressed; and all policies and guidance are effectively communicated to all long-term care industry stakeholders to maximize the coordination and effectiveness of the State's response to an outbreak, epidemic, or pandemic affecting long-term care facilities.

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

The LTCEOC will be required to develop guidance and best practices in response to an infectious disease outbreak, epidemic, or pandemic concerning, as may be appropriate, infection control, symptom monitoring, and the use of telemedicine and telehealth to provide contactless health care services.

As amended, the bill requires the DOH to institute, no later than 90 days after the effective date of the bill, a regional medical coordination center model for disaster response to facilitate regional capacity coordination and communication across county and local boards of

health, hospitals, long-term care facilities, emergency medical services providers and other first responders, and entities providing medical transportation, in the event of a public health emergency involving a communicable disease outbreak, epidemic, or pandemic. At a minimum, the model is to include a system for engaging the Level 1 trauma center in the region with long-term care facilities, federally qualified healthcare centers, home health agencies, hospice providers, medical transportation providers, long-term care facilities, emergency medical services providers and other first responders, and medical transportation entities in its associated region. The Regional Level 1 Trauma Center and its associated regional medical coordination center shall make available their various clinical and non-clinical content experts and services are available for consultation and support to facilitate the implementation of evidence-based best practices and informed decision making. The DOH is to identify appropriate sources of State, federal, and private funding to implement the regional medical coordination center model.

Within 60 days after the effective date of the bill, each long-term care facility will be required to develop plans, in coordination with the LTCEOC, to maintain mandatory long-term care facility staffing levels by replacing facility staff who isolate or quarantine because of infection with or exposure to an infectious disease, particularly during an outbreak, epidemic, or pandemic involving the infectious disease.

During an outbreak, epidemic, or pandemic involving an infectious disease, long-term care facilities are to provide the LTCEOC with an outline of the facility's regular staffing requirements and promptly notify the LTCEOC in the event any staff member tests positive for the infectious disease or is required to isolate or quarantine based on infection or exposure to the infectious disease. The LTCEOC will utilize this data to identify staffing needs throughout the State, anticipate potential staffing shortages, and develop strategies to promptly respond to anticipated shortages.

During an outbreak, epidemic, or pandemic involving an infectious disease, the LTCEOC will be required to establish a system for communicating test results for the infectious disease among long-term care facilities for individuals who are employed by or providing services in multiple facilities. The system will be limited to ensuring facilities are on notice of which employees of the facility have tested positive for the infectious disease, and will include safeguards against the unlawful disclosure of personal identifying information and private health information. Facilities receiving information about an employee through the system will be prohibited from using or disseminating the reported information for any purpose other than to ensure the facility's staffing needs are met and to identify and prevent against the possible transmission of the infectious disease at the facility through contact with the identified employee.

The DOH will be required to develop plans for the placement of patients who contract an infectious disease during an outbreak, epidemic, or pandemic of the disease but who do not require hospitalization, which plan will apply in the event of a surge in new cases of the infectious disease that exceeds safe capacity levels in long-term care facilities. At a minimum, the placement plan is to include the rapid establishment of at least three regional hubs capable of accepting patients with the infectious disease who do not require hospitalization, which hubs are to comply with State and federal guidance regarding infection control practices related to the infectious disease. In the event of a surge in cases of the infectious disease, the LTCEOC will be required to actively monitor capacity levels at long-term care facilities and at regional hubs and take steps to direct patient placements as necessary to manage safe capacity levels.

Within 30 days after the effective date of the bill, the DOH will be required to develop a plan and provide guidance to long-term care facilities on how the facilities can comply with and implement federal guidance on accepting new residents at the facility and allow in-person visits with residents of the facility during the ongoing coronavirus disease 2019 (COVID-19) pandemic, which guidance is to be developed in consultation with the LTCEOC. The guidance is to include specific requirements related to isolation and cohorting, stockpiling and distributing personal protective equipment (PPE) and COVID-19 test kits, and staffing. The DOH will be required to establish a centralized online resource to answer frequently asked questions and provide educational sessions, focus groups, and support services to the long-term care industry in implementing the guidance developed under the bill.

In developing guidance, the DOH will be required to plan for potential or anticipated changes in federal policy that could affect the ability of long-term care facilities, or health care professionals in general, to respond to the COVID-19 pandemic, including changes that could restrict professional scope of practice or coverage under a health benefits plan for services provided to long-term care facility residents.

Each long-term care facility will be required to submit to the DOH, prior to admitting new residents to the facility and resuming in-person visitation with facility residents during the ongoing COVID-19 pandemic, an attestation of compliance with federal requirements and the guidelines issued under the bill. If, at any time after resuming new admissions and in-person visitations, the long-term care facility identifies issues or encounters circumstances that require a modified approach to new admissions and in-person visits or that require ending new admissions or in-person visits, the facility will be required to promptly report those issues or circumstances to the LTCEOC. The bill requires the DOH to establish a system for general acute care

hospitals to determine which long-term care facilities are in compliance with these requirements and are accepting new residents.

The LTCEOC will be required to establish a compliance check system comprising, as appropriate, testing, assistance, and clinical teams, to periodically evaluate the ability of long-term care facilities to resume new admissions and in-person visitation and render assistance to the facilities as needed, including staff support and assistance in obtaining PPE, COVID-19 testing kits, or other necessary resources.

Within 30 days after the effective date of the bill, the DOH will be required to develop standards and protocols for COVID-19 testing in long-term care facilities in order to minimize the risk that staff and residents of long-term care facilities may be exposed to COVID-19 through interaction with other persons present at the facility. The standards and protocols are to prioritize use of the most effective forms and methods of testing, provide guidance for facilities to implement comprehensive testing using the facility's own resources and funding; establish methods to avoid duplicative testing of staff members employed by or providing professional services at more than one long-term care facility, require long-term care facilities to provide on-site testing services to facility staff, including protocols for establishing mobile testing units on an expedited basis when needed, and allow facilities flexibility in implementing routine testing if it becomes necessary.

The standards and protocols may additionally include specific testing requirements based on local infection rates and risk factors, protocols for determining in which situations testing will be mandatory, a mechanism for hospitals to provide or support COVID-19 testing in long-term care facilities, and the establishment of a network of preferred clinical laboratories for COVID-19 testing.

The LTCEOC will be required to support COVID-19 testing protocols in long-term care facilities through the coordinated distribution of available supplies and other resources to long-term care facilities and by assisting facilities with identifying and accessing available sources of funding.

The Commissioner of Health, the Commissioner of Human Services, and the Commissioner of Banking and Insurance will be required to jointly develop strategies to ensure reimbursement of COVID-19 tests performed under the bill through health benefits plans, Medicaid and NJ FamilyCare, Medicare, and State and federal funds made available for this purpose.

The bill requires the Commissioner of Health and the Commissioner of Human Services to take steps to ensure available and appropriate sources of federal funding provided to states in response to the COVID-19 pandemic are made available to long-term care facilities. The commissioners may condition awards of funding on long-term care facilities providing regular reports on how the funding is used, including evidence of compliance with any conditions attached

to the funding and information concerning the steps the facility is taking to improve the facility's preparedness and response to the COVID-19 pandemic.

The bill requires the DOH, no later than 60 days after the effective date of the bill, to coordinate with appropriate State and federal entities to consolidate all State and federal data reporting related to the COVID-19 pandemic through the NJHA PPE, Supply & Capacity Portal maintained by the New Jersey Hospital Association (NJHA). The DOH will migrate the NJHA portal onto DOH systems and communicate the change to long-term care facilities. The DOH will be authorized to enter into any necessary agreements with the NJHA.

No later than 30 days after the effective date of the bill, the DOH will be required to undertake a review of State, federal, county, and local reporting requirements for long-term care facilities related to COVID-19 and take steps to standardize and consolidate the reporting requirements in order to reduce the burden of compliance for facilities, improve the utility of the reported data, and improve the ability to share the data across systems. No later than 90 days after the effective date of the bill, the DOH is to centralize its internal COVID-19 and long-term care facility data reporting and storage systems to facilitate data sharing across systems. The centralized systems are to: (1) incorporate a function that automatically transmits alerts concerning COVID-19 outbreaks and deaths in long-term care facilities to appropriate governmental agencies, and (2) receive and compile complaints concerning long-term care facilities received from any other State department or agency to facilitate the response to chronic, repeat, or acute issues related to the health or safety of residents and staff at the facility.

The DOH will be required to provide support to smaller long-term care facilities to assist with upgrades and enhancements to their health information technology systems to allow for ready communication with State, county, and local entities regarding COVID-19. Support provided to the facilities may include staff support, technical assistance, and financial support.

As amended by the committee, the bill requires the DOH to prepare and submit a report to the Governor and the Legislature, no later than 18 months after the effective date of the bill, concerning the implementation of the provisions of the bill and any recommendations for appropriate legislative or administrative actions as may be appropriate to advance or improve the State's infectious disease planning, preparedness, and response.

COMMITTEE AMENDMENTS:

The committee amendments revise the duties of the Long Term Care Emergency Operations Center (LTCEOC) established under the bill to apply to any hazardous event, not just outbreaks of infectious disease.

The committee amendments provide that the LTCEOC may call to its assistance representatives of general acute care hospitals, psychiatric hospitals, home health and hospice agencies, and Programs of All-Inclusive Care for the Elderly (PACE) organizations, in addition to the private and public entities enumerated in the bill as introduced.

The committee amendments remove a requirement that guidance produced by the LTCEOC concerning infectious disease response be distributed to other State, national, and international entities.

The committee amendments revise the requirements for the establishment of a regional medical coordination center model to require the model be developed in consultation with the Emergency Medical Services Task Force. The committee amendments additionally replace a requirement that various health care entities be paired with a general acute care hospital that will provide support services, to instead provide that the model utilize a Level 1 Trauma center in each region to provide consultation and support services to facilitate evidence-based best practices and informed decision making.

The committee amendments remove language enumerating certain potential components of a long-term care facility's staffing replacement plans.

The committee amendments remove language prohibiting hospitals from discharging patients to long-term care facilities that do not have an approved new admissions and visitation plan in place to instead require the DOH to develop a mechanism for hospitals to identify facilities that have met the requirements to accept new residents.

The committee amendments revise a requirement that the mobile COVID-19 testing units be supported by a general acute care hospital.

The committee amendments add a requirement that the DOH report to the Governor and the Legislature concerning implementation of the provisions of the bill.