ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4476

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4476 (1R).

As amended by the committee, this bill establishes certain requirements concerning the State's preparedness and response regarding declared public health emergencies 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 public health emergencies.

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 declared public health emergencies affecting or likely to affect one or more long-term care facilities. The LTCEOC 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 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, the acute and post-acute health care industry, as well as experts in public health, infection control, elder affairs, disability services, emergency response, and medical transportation.

The primary responsibilities of the LTCEOC will include, but shall not be limited to:

(1) establishing ongoing, direct communication with the owners and staff of long-term care facilities and with associated entities

during a public health emergency, which may include the use of existing communication mechanisms and feedback loops in the DOH's Office of Disaster Resilience or Health Systems branch, as appropriate;

(2) providing technical assistance to the long-term care industry during the public health emergency, which may be facilitated through local health departments;

(3) ensuring supplies and equipment needed to respond to the public health emergency are acquired and distributed in an effective and efficient manner among long-term care facilities;

(4) utilizing the National Healthcare Safety Network (NHSN) database managed by the federal Centers for Disease Control and Prevention to identify shortages in staff and necessary equipment, monitor facility capacity levels, and track positive cases and deaths resulting from infectious diseases; and

(5) ensuring all policies and guidance developed by the DOH in response to the public health emergency are effectively communicated to all long-term care industry stakeholders.

As amended, the bill requires that, in the event of a public health emergency declared in response to an infectious disease outbreak, epidemic, or pandemic affecting long-term care facilities, the LTCEOC, in consultation with other offices within the DOH and the Office of Emergency Management (OEM) in the New Jersey Division of State Police, will determine whether it is necessary to establish regional hubs capable of accepting patients who have, and are capable of transmitting, the infectious disease and who do not require hospitalization. In the event of a surge in number of identified cases of the infectious disease, the LTCEOC will be required to actively monitor capacity levels at long-term care facilities using the NHSN database and at any regional hubs established under this subsection, and shall take steps to direct patient placements as necessary to manage capacity levels and ensure, to the extent possible, that no regional hub or long-term care facility exceeds safe capacity levels.

As amended, the bill requires the DOH to institute, no later than 180 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.

As amended, the bill requires long-term care facilities, during an infectious disease outbreak occurring at the long-term care facility or an epidemic or pandemic affecting or likely to affect the long-term care facility, to separate residents who have tested positive for or who are suspected of having contracted the infectious disease from residents who have not tested positive for, and who are not suspected of having contracted, the infectious disease. Facilities will be required to comply with guidance concerning how to determine whether a resident who contracted the infectious disease is recovered from the disease, as well as procedures and protocols for interactions between those residents and other residents and staff at the facility. Facilities will further be required to comply with current orders, guidance, and directives concerning admissions and readmissions to the facility.

The bill, as amended, requires the DOH to establish a mechanism for hospitals to identify long-term care facilities that are currently accepting residents for admission or readmission to the facility.

As amended, the bill requires that, during a public health emergency involving an infectious disease affecting or likely to affect a long-term care facility, the long-term care facility will be required to report to the NHSN database, at least twice per week: (1) counts of residents and facility personnel with suspected cases of the infectious disease and who have a laboratory test confirming infection with the infectious disease; (2) counts of residents and facility personnel with suspected and confirmed deaths from the infectious disease; (3) the total number of authorized resident beds and the current resident census; (4) staffing shortages; (5) the quantity of personal protective equipment, hand hygiene supplies, cleaning supplies, and sanitization supplies, along with an assessment of the number of days that will be supported by current inventory; (6) for facilities with ventilator-dependent units, ventilator capacity and the quantity of ventilator supplies, along with an assessment of the number of days that will be supported by current inventory; and (7) any other metrics required by as the Commissioner of Health as an essential or relevant component of the State's response to the infectious disease outbreak, epidemic, or pandemic in long-term care facilities.

In addition, to facilitate the enforcement of P.L.2019, c.330 (C.26:2H-18.79), which requires health care facility employees to receive the annual influenza vaccination, during each influenza season, long-term care facilities and home health employers will be required to

report to the NHSN database the number of employees who have received the influenza vaccination, the number of employees who have not received the influenza vaccination due to an authorized medical exemption, and the number of employees who have not received the influenza vaccination who do not have a valid medical exemption.

A long-term care facility that fails to submit a required report to the NHSN will be liable to a civil penalty of $2,000 for each report that is not submitted.

As amended by the committee, the bill requires each long-term care facility, no later than 270 days after the effective date of the bill to implement or upgrade to an electronic health record system certified by the Office of the National Coordinator for Health Information Technology in the U.S. Department of Health and Human Services that is capable of information sharing through industry standard data interoperability, including application programming interface Health Level 7 or fast healthcare interoperability technology. Use cases built on this technology are to include the bi-directional capability for admission discharge and transfer and continuity of care through the clinical data architecture. Long-term care facilities interoperability for these use cases is to be achieved by connecting to the New Jersey Health Information Network.

Subject to the availability of funding for this purpose, the DOH will be required to make grants available to long-term care facilities to provide assistance in implementing or upgrading to an electronic health record system that meets these requirements, which grants will be distributed to long-term care facilities based on demonstrated need.

The bill requires long-term care facilities to include in the facility's statutorily-required outbreak response plan a documented strategy for securing more staff in the event of an outbreak of infectious disease among staff or other emergent or non-emergent situation affecting staffing levels at the facility during an outbreak of an infectious disease.

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 requirements for the Long Term Care Emergency Operations Center (LTCEOC) established under the bill to apply to declared states of public emergency, rather than any hazardous event. The amendments remove a requirement

that the LTCEOC be established within 30 days after the effective date of the bill.

The committee amendments revise the membership of the LTCEOC to remove requirements that representatives of specific entities within the long-term care industry be included on the LTCEOC, and instead provide that the Department of Health (DOH) is to have on call representatives from the acute and post-acute health care industry.

The committee amendments revise the specific duties of the LTCEOC to clarify that the LTCEOC will facilitate ongoing direct communications during a public health emergency, but will be authorized to use existing communications mechanisms available to certain entities with the DOH. The amendments further provide that the LTCEOC may utilize the National Healthcare Safety Network (NHSN) database managed by the federal Centers for Disease Control and Prevention to track data related to the emergency and will be tasked with ensuring all policies and guidance developed by the DOH in response to the public health emergency are effectively communicated to all long-term care industry stakeholders.

The committee amendments revise the requirements for the DOH to institute a regional medical coordination center model to provide that the DOH will have 180 days to institute the model, rather than 90 days, and that the model is to be instituted in consultation with the Office of Emergency Management, as well as the Emergency Medical Services Council.

The committee amendments remove certain language from the bill that would have required long-term care facilities to develop plans to address staffing shortages, and instead provide that each facility's statutorily-required outbreak response plan include a documented strategy for securing more staff in the event of an outbreak of infectious disease among staff or in other situations that may affect staffing levels at the facility during an infectious disease outbreak.

The committee amendments remove language from the bill that would have required long-term care facilities to report staffing information to the LTCEOC, and for the LTCEOC to institute a system for tracking employees who test positive for an infectious disease across employers.

The committee amendments add provisions requiring that, during infectious disease outbreaks, epidemics, and pandemics affecting a long-term care facility, the facility will be required to cohort residents, follow certain guidance concerning determining whether a resident who contracted an infectious disease is recovered from the disease and protocols and procedures concerning interactions between that resident and other residents and staff at the facility, and comply with current orders, guidance, and directives concerning resident admissions and readmissions to the facility.

The committee amendments remove language that would have required the DOH develop guidance for long-term care facilities to accept new residents and allow indoor visitation with residents and to develop an online resource center to facilitate new admissions and visitation, and for the LTCEOC to institute a compliance check system.

The committee amendments revise the requirement for the DOH to establish a mechanism for hospitals to identify long-term care facilities that have met certain requirements to accept new residents to the facility, which requirements were removed by committee amendment, to instead provide that the mechanism is to allow hospitals to identify long-term care facilities that are currently accepting admissions and readmissions of residents to the facility.

The committee amendments remove language that would have required the DOH to institute COVID-19 testing standards and protocols for long-term care facility residents and staff.

The committee amendments remove provisions from the bill that would have required the DOH to coordinate with other entities to streamline and consolidate COVID-19 data reporting for long-term care facilities, and to provide technical assistance to smaller long-term care facilities to upgrade and enhance their data systems.

The committee amendments add a requirement that long-term care facilities report certain information during an infectious disease outbreak, epidemic, or pandemic to the NHSN, including cases and deaths involving the infectious disease, resident capacity levels, staffing shortages, and quantities of essential equipment. Additionally, the committee amendments add a requirement that long-term care facilities and home health employers report certain data concerning employee influenza vaccinations during each flu season. Failure to make a required report will be punishable by a civil penalty of $2,000 per violation.

The committee amendments add a requirement that all long-term care facilities institute or upgrade electronic health records systems that meet certain requirements. Subject to the availability of funding, the amendments require the DOH to make grants available to support long-term care facilities in instituting or upgrading electronic health records systems, with the grants to be distributed based on demonstrated need.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill, as amended, may result in an indeterminate increase in costs incurred by the Department of Health (DOH) in establishing the Long-Term Care Emergency Operations Center (LTCEOC) and in fulfilling the LTCEOC's duties, as outlined in the bill. These cost will be minimized to the extent that the department can: 1) reallocate resources from existing entities, such as the DOH's Office of Disaster

Resilience or Health Systems branch; 2) request and receive staff support from the Department of Human Services or other State agencies, as provided for in the bill; and 3) use existing communications mechanisms, as well as any overlap with current department duties, to fulfill the provisions of the bill. The OLS notes that any costs associated with the LTCEOC will only be realized during a public health emergency affecting or likely to affect one or more long-term care (LTC) facilities, the trigger for making the LTCEOC operational.

The OLS finds that the DOH may realize certain one-time cost increases under the bill in instituting a regional medical coordination center model and in submitting a report to the Governor and the Legislature concerning the implementation of the provisions of the bill.

The OLS estimates that nursing homes operated by the Division of Military and Veterans Affairs (DMAVA) and certain county governments may incur expenses in complying with the reporting requirements outlined in the bill and in upgrading facility electronic health records (EHR) systems. The OLS notes that the bill directs the DOH, subject to availability, to make grants to LTC facilities to provide assistance in upgrading an EHR system, which may minimize the impact of this provision on the above facilities. Currently, the DMAVA operates three facilities, while there are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County