

P.L. 2020, CHAPTER 113, *approved October 23, 2020*
Senate Committee Substitute for
Senate, No. 2785

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.

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

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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.

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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

1 activities with other facility residents and with family members,
2 friends, and other external support systems, except when such in-
3 person contact, communication, or activities are prohibited,
4 restricted, or limited, as permitted by federal and State statute, rule,
5 or regulation;

6 (2) authorize, and include specific protocols and procedures to
7 encourage and enable, residents to engage in face-to-face or
8 verbal/auditory-based contact, communication, and religious and
9 recreational activities with other facility residents and with family
10 members, friends, and other external support systems, through the
11 use of electronic or virtual means and methods, including, but not
12 limited to, computer technology, the Internet, social media,
13 videoconferencing, and other innovative technological means or
14 methods, whenever such residents are subject to restrictions that
15 limit their ability to engage in in-person contact, communications,
16 or religious and recreational activities as authorized by paragraph
17 (1) of this subsection;

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

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

1 (5) require appropriate staff to assess and regularly reassess the
2 individual needs and preferences of facility residents with respect to
3 the residents' participation in social interactions and religious and
4 recreational activities, and include specific protocols and
5 procedures to ensure that the quantity of devices and equipment
6 maintained on-site at the facility remains sufficient, at all times, to
7 meet the assessed social and activities needs and preferences of
8 each facility resident;

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

19 (7) include specific policies, protocols, and procedures
20 governing a resident's requisition, use, and return of devices and
21 equipment maintained pursuant to this act, and require appropriate
22 staff to communicate those policies, protocols, and procedures to
23 residents; and

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

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

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42 3. a. Whenever the department conducts an inspection of a
43 long-term care facility, the department's inspector shall determine
44 whether the long-term facility is in compliance with the provisions
45 of this act and the policies, protocols, and procedures adopted
46 pursuant thereto.

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

5 (1) shall be liable to pay an administrative penalty, the amount
6 of which shall be determined in accordance with a schedule
7 established by department regulation, which schedule shall provide
8 for an enhanced administrative penalty in the case of a repeat or
9 ongoing violation; and

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

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

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

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