

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2384**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JULY 28, 2020

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2384.

As amended by the committee, this bill establishes certain reporting requirements for health care facilities with regard to the coronavirus disease 2019 (COVID-19) for certain health care workers.

Specifically, general acute care hospitals, special hospitals, ambulatory care facilities, ambulatory surgical centers, assisted living facilities, home health agencies, nursing homes, and hospice programs are required to report to the Department of Health (DOH) data on the number of health care professionals, ancillary health care workers, and emergency medical services personnel affiliated with the facility who tested positive for COVID-19 and who died from COVID-19. The DOH is required to issue guidance concerning the specific health care professionals, ancillary health care workers, and emergency medical services personnel for whom reporting will be required.

The required information is to be filed in a form and manner, and at such frequencies, as required by the DOH. To ensure the integrity and accuracy of the information reported, the DOH is to seek to identify and minimize duplicative reporting from multiple facilities concerning the same individual in the event that the individual is employed by, or affiliated with, more than one facility. The DOH is permitted to require the reporting of any additional information as may be appropriate to maximize the utility of the reported information, including, but not limited to, requiring specific information be reported concerning the professional licensure or certification or specific job title or category of the individual who is the subject of the report.

The Commissioner of Health is required to compile the reported data reported in the manner the commissioner determines to be the most effective and utilitarian, which may include compiling the data by facility type and by professional license or certification type, if any, or by job title or category.

The DOH is required to publish on its Internet website the occupational data received under the bill, which data is to be updated as they become available. To the extent possible, the data reported by the DOH may be merged and cross-referenced with the demographic data published by the DOH pursuant to section 1 of P.L.2020, c.28.

The amended bill expressly provides that nothing in its provisions is to be construed to require disclosure of any private health information or personal identifying information in violation of any State or federal law, including the federal "Health Insurance Portability and Accountability Act of 1996 (HIPAA)."

The amended bill further requires general acute care hospitals, special hospitals, ambulatory care facilities, ambulatory surgical centers, assisted living facilities, home health agencies, nursing homes, and hospice programs to adopt standards, procedures, and protocols to evaluate and mitigate the risk of exposure to, and spread of, COVID-19 in health care settings, which standards, protocols, and procedures are to be consistent with guidance currently published by the DOH and the federal Centers for Disease Control and Prevention.

No later than 60 days after the end of both the state of emergency and the public health emergency declared in response to the COVID-19 pandemic, general acute care hospitals, special hospitals, ambulatory care facilities, ambulatory surgical centers, assisted living facilities, home health agencies, nursing homes, and hospice programs are required to complete an analysis of COVID-19 exposures identified throughout their workforces during each month of the COVID-19 emergency, along with the measures taken by the facility to respond to or mitigate the risk of exposure. The facilities are required to submit a report of that analysis to the DOH concerning recommended best practices and protocols to mitigate the risk of exposure and spread of communicable disease among health care facility staff and personnel during a communicable disease outbreak, epidemic, or pandemic. These facility reports and any supporting data are to be held as confidential and may only be used by the DOH in the development of strategies, plans, protocols, and best practices to improve the State's response in the event of future communicable disease outbreaks, as well as for the purposes of preparing a report required under the bill. To this end, the facility reports and supporting data will be exempt from public disclosure, will not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), and cannot be used in any adverse licensure action or administrative disciplinary action against the facility.

No later than 120 days after the end of both the state of emergency and the public health emergency declared in response to the COVID-19 pandemic, the commissioner is required to submit a report to the Governor and to the Legislature outlining the aggregated data and findings in the confidential health care facility reports and outlining the commissioner's findings and recommendations for legislation or other action to mitigate the risk of exposure and spread of communicable disease among health care facility staff and personnel during a communicable disease outbreak, epidemic, or pandemic.

As amended, the bill is to expire one year after the end of both the state of emergency and the public health emergency declared in response to the COVID-19 pandemic.

COMMITTEE AMENDMENTS:

The committee amendments include assisted living facilities, home health agencies, and hospice care programs in the list of health care facilities that are subject to the reporting requirements of the bill.

The committee amendments remove a requirement that facilities report data concerning admissions of health care workers for treatment for COVID-19.

The committee amendments add provisions specifying that facilities are to report the data under the bill in a form, manner, and frequency as is specified by the DOH, and that the DOH is to implement steps to minimize the risk of duplicative reports concerning an individual health care worker. The DOH is also have the discretion to determine the specific workers for whom data is required to be reported under the bill and to require additional information be reported as is necessary to maximize the utility of the reported information. Finally, the DOH is to have broad discretion in determining how best to compile the reported data.

The committee amendments provide that the DOH's Internet website is to be updated with data reported by facilities as the data become available, rather than daily.

The committee amendments add a provision stating that nothing in the bill is to be construed to authorize the disclosure of personal identifying or private health information in violation of any State or federal law.

The committee amendments add a new section requiring health care facilities to adopt standards, procedures, and protocols for evaluating and mitigating COVID-19 exposure risks in health care settings, which are to be consistent with current guidance issued by the DOH and the federal Centers for Disease Control and Prevention.

The committee amendments require health care facilities to complete and submit to the DOH an internal COVID-19 exposure analysis, along with recommended best practices and protocols to mitigate the spread of communicable disease among health care workers in the event of a future outbreak. These reports to the DOH are to be held confidential and are not subject to public disclosure. However, the DOH is to compile the aggregated data and submit a report to the Governor and the Legislature concerning its recommendations for legislation or other action to mitigate the risks of future communicable disease outbreaks. The reported data may also be used by the DOH to develop strategies, plans, protocols, and best practices to improve the State's response in the event of future communicable disease outbreaks.

The committee amendments revise the effective date of the bill to provide that the bill is to expire one year after the end of the COVID-19 state of emergency and public health emergency, rather than one month after the end of the declared emergencies.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the Department of Health may incur indeterminate expenses to collect, tabulate, and publish the data required to be reported by health care facilities under the bill. The OLS is unable to quantify this amount, however, as the cost and the duration of these activities are unknown. The OLS does assume that the department will be capable of using existing staff and infrastructure to accomplish these goals, at least in part, thereby minimizing or eliminating any costs.

The OLS also concludes that the following health care facilities may experience an increase in expenditures to comply with the bill's reporting requirements; to adopt standards, procedures, and protocols for evaluating and mitigating COVID-19 exposure risks; and to complete an internal COVID-19 exposure analysis: 1) University Hospital, an independent non-profit legal entity that is an instrumentality of the State; 2) Bergen Regional Medical Center, a county-owned entity; and 3) nursing homes operated by the Division of Military and Veterans Affairs and certain county governments.

The OLS notes that all costs associated with this bill are limited to an unknown period of time, commencing upon the bill's enactment and ending one year after the end of both the state of emergency and the public health emergency declared in response to the COVID-19 pandemic.