

[Fourth Reprint]

## **ASSEMBLY, No. 4430**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

INTRODUCED JULY 20, 2020

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

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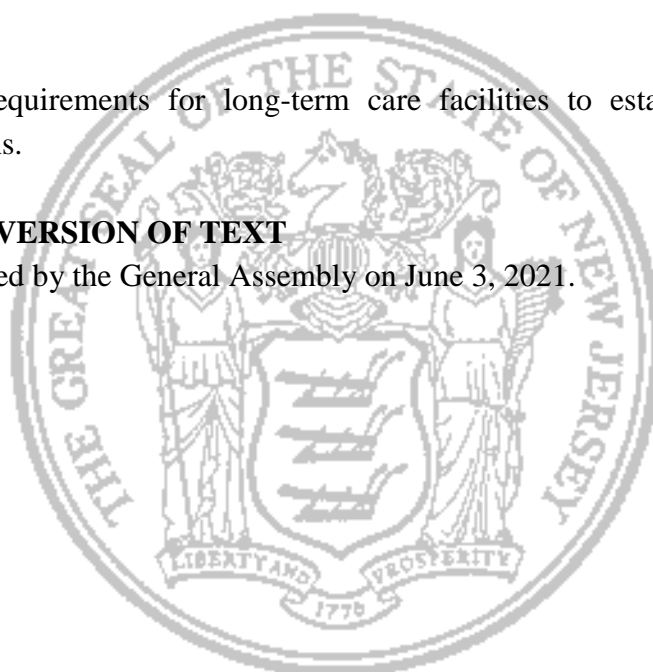
**Assemblyman Benson, Assemblywoman Downey, Assemblymen Caputo, Giblin, Assemblywomen Speight, Swain, Assemblymen Wirths, Space, Assemblywoman Jimenez, Assemblyman Tully, Assemblywoman Timberlake, Assemblyman Johnson, Assemblywoman Lampitt, Assemblyman Mejia and Assemblywoman Jasey**

### **SYNOPSIS**

Revises requirements for long-term care facilities to establish outbreak response plans.

### **CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 3, 2021.



**(Sponsorship Updated As Of: 6/3/2021)**

1 AN ACT concerning long-term care facilities and amending  
2 P.L.2019, c.243.

3

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

6

7 1. Section 1 of P.L.2019, c.243 (C.26:2H-12.87) is amended to  
8 read as follows:

9 1. a. As used in this section:

10 "Cohorting" means the practice of grouping patients who are or are  
11 not colonized or infected with the same organism to confine their care  
12 to one area and prevent contact with other patients.

13 "Department" means the Department of Health.

14 "Endemic level" means the usual level of given disease in a  
15 geographic area.

16 "Isolating" means the process of separating sick, contagious  
17 persons from those who are not sick.

18 "Long-term care facility" means a nursing home, <sup>3</sup>assisted living  
19 residence,<sup>3</sup> <sup>4</sup>comprehensive personal care home, residential health  
20 care facility, or dementia care home<sup>4</sup> licensed pursuant to P.L.1971,  
21 c.136 (C.26:2H-1 et seq.).

22 ["Long-term care facility that provides care to ventilator-  
23 dependent residents" means a long-term care facility that has been  
24 licensed to provide beds for ventilator care.]

25 "Outbreak" means any unusual occurrence of disease or any  
26 disease above background or endemic levels.

27 b. Notwithstanding any provision of law to the contrary, as a  
28 condition of licensure, the department shall require long-term care  
29 facilities to develop an outbreak response plan within 180 days after  
30 the effective date of this act, which plan shall be customized to the  
31 facility, based upon national standards and developed in consultation  
32 with the facility's infection <sup>1</sup>prevention and<sup>1</sup> control committee <sup>2</sup>[, if  
33 the facility has established an infection <sup>1</sup>prevention and<sup>1</sup> control  
34 [committee<sup>2</sup>] committee]<sup>2</sup>. At a minimum, each facility's plan shall  
35 include, but shall not be limited to:

36 (1) a protocol for isolating and cohorting infected and at-risk  
37 <sup>2</sup>[patients] residents<sup>2</sup> in the event of an outbreak of a contagious  
38 disease until the cessation of the outbreak;

39 (2) clear policies for the notification of residents, residents'  
40 families, visitors, and staff in the event of an outbreak of a contagious  
41 disease at a facility;

42 (3) information on the availability of laboratory testing, protocols  
43 for assessing whether facility visitors are ill, protocols to require ill

**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:

<sup>1</sup>Assembly AHE committee amendments adopted October 22, 2020.

<sup>2</sup>Assembly floor amendments adopted October 29, 2020.

<sup>3</sup>Assembly floor amendments adopted March 25, 2021.

<sup>4</sup>Assembly floor amendments adopted June 3, 2021.

1 staff to not present at the facility for work duties, and processes for  
2 implementing evidence-based outbreak response measures;

3 (4) policies to conduct routine monitoring of residents and staff to  
4 quickly identify signs of a communicable disease that could develop  
5 into an outbreak; <sup>1</sup>and<sup>1</sup>

6 (5) policies for reporting outbreaks to public health officials in  
7 accordance with applicable laws and regulations <sup>1</sup>; and

8 (6) a documented strategy for securing more staff in the event of  
9 an outbreak of infectious disease among staff or another emergent or  
10 non-emergent situation affecting staffing levels at the facility during  
11 an outbreak of an infectious disease<sup>1</sup> .

12 c. (1) In addition to the requirements set forth in subsection b. of  
13 this section, the department shall require long-term care facilities [that  
14 provide care to ventilator-dependent residents] to include in the  
15 facility's outbreak response plan written policies to meet staffing,  
16 training, and facility demands during an infectious disease outbreak to  
17 successfully implement the outbreak response plan, including  
18 <sup>1</sup>[either]<sup>1</sup> employing <sup>1</sup>[on a full-time or part-time basis, or contracting  
19 with on a consultative basis,]<sup>1</sup> the following individuals:

20 (a) an individual <sup>1</sup>[certified by the Certification Board of Infection  
21 Control and Epidemiology] who meets the requirements of  
22 subparagraph (b) of paragraph (1) of subsection e. of this section <sup>2</sup>[,  
23 who shall be employed:

24 (i) at least part time in the case of a long-term care facility with a  
25 licensed bed capacity equal to 100 or fewer beds; and

26 (ii) on a full-time basis in the case of a long-term care facility with  
27 a licensed bed capacity equal to more than 100 beds or that provides  
28 on-site hemodialysis services<sup>1</sup><sup>2</sup> ; and

29 (b) a physician who <sup>1</sup>[has completed an infectious disease  
30 fellowship] meets the requirements of subparagraph (a) of paragraph  
31 (1) of subsection e. of this section <sup>2</sup>[, who may be employed on a full-  
32 time or part-time basis or contracted with on a consultative basis<sup>1</sup><sup>2</sup> .

33 (2) Each <sup>1</sup>[long-term care facility] nursing home that has not  
34 previously submitted an outbreak response plan to the department<sup>1</sup>  
35 [that provides care to ventilator-dependent residents] shall submit <sup>1</sup>an  
36 outbreak response plan<sup>1</sup> to the department <sup>1</sup>[the facility's outbreak  
37 response plan within 180 days after the effective date of this act] for  
38 verification as provided in paragraph (3) of this subsection<sup>1</sup> .

39 (3) The department shall verify that the outbreak response plans  
40 submitted by <sup>1</sup>[long-term care facilities] nursing homes<sup>1</sup> [that provide  
41 care to ventilator-dependent residents] are in compliance with the  
42 requirements of subsection b. of this section and with the requirements  
43 of paragraph (1) of this subsection.

44 <sup>1</sup>(4) The department shall have the authority to require any long-  
45 term care facility to revise its outbreak response plan as needed to  
46 come into compliance with the requirements of subsection b. of this

1 section and the requirements of paragraph (1) of this subsection. The  
2 department may assess civil penalties or take other administrative  
3 actions against a facility in the event the department determines the  
4 facility is not in compliance with the requirements of this section.<sup>1</sup>

5 <sup>3</sup>(5) Each long term-care facility shall perform an annual training  
6 exercise to ensure its outbreak response plan is practical,  
7 comprehensive, and ensures the safety and well-being of residents and  
8 staff. The annual training exercise shall include, but shall not be  
9 limited to, coordinating with emergency medical services, hospitals,  
10 and fire and police departments. Each long-term care facility shall  
11 record a summary of the effectiveness of the training exercise and any  
12 need for future modifications to the training exercise.<sup>3</sup>

13 d. (1) Each long-term care facility <sup>1</sup>【that submits an outbreak  
14 response plan to the department pursuant to subsection c. of this  
15 section】<sup>1</sup> shall review <sup>3</sup>and, if necessary, update<sup>3</sup> <sup>1</sup>【the】 its outbreak  
16 response<sup>1</sup> plan on an annual basis.

17 (2) If a <sup>1</sup>【long-term care facility】 nursing home<sup>1</sup> 【that provides  
18 care to ventilator-dependent residents】 makes any material changes to  
19 its outbreak response plan, the <sup>1</sup>【facility】 nursing home<sup>1</sup> shall, within  
20 30 days after completing the material change, submit to the department  
21 an updated outbreak response plan. The department shall, upon  
22 receiving an updated outbreak response plan, verify that the plan is  
23 compliant with the requirements of subsections b. and c. of this  
24 section.

25 e. (1) The department shall require <sup>1</sup>【a】 each long-term care  
26 facility 【that provides care to ventilator-dependent residents】 to  
27 <sup>2</sup>establish an infection prevention and control committee and<sup>2</sup> assign  
28 to the facility's infection <sup>1</sup>prevention and<sup>1</sup> control committee <sup>1</sup>【on a  
29 full-time or part-time basis, or on a consultative basis】<sup>1</sup> :

30 (a) 【an who is】 a physician who has completed an infectious  
31 disease fellowship <sup>2</sup>, who shall be employed on a full-time or part time  
32 basis or contracted with on a consultative basis<sup>2</sup>; and

33 (b) an individual designated as the infection 【control  
34 coordinator,】 preventionist who <sup>2</sup>;

35 (i)<sup>2</sup> has 【education, training, completed course work, or  
36 experience in infection control or】 primary professional training in  
37 medicine, nursing, medical technology, microbiology, epidemiology,  
38 【including】 or a related field <sup>2</sup>【,】 ;

39 (ii)<sup>2</sup> is qualified by education, training, <sup>1</sup>and at least five years of  
40 infection control<sup>1</sup> experience, or <sup>2</sup>by<sup>2</sup> certification in infection control  
41 by the Certification Board of Infection Control and Epidemiology <sup>2</sup>【,】;

42 (iii) is employed by the facility consistent with the requirements  
43 of subsection f. of this section;<sup>2</sup> and

44 <sup>2</sup>(iv)<sup>2</sup> has completed specialized training in infection prevention  
45 and control.

1       <sup>1</sup>(2)<sup>1</sup> The infection <sup>1</sup>prevention and<sup>1</sup> control committee shall meet  
2 on at least a quarterly basis <sup>1</sup>["and both individuals"] . The physician<sup>1</sup>  
3 assigned to the committee pursuant to this subsection shall attend at  
4 least half of the meetings held by the infection <sup>1</sup>prevention and<sup>1</sup>  
5 control committee <sup>1</sup>, and the infection preventionist assigned to the  
6 committee pursuant to this subsection shall attend all of the meetings  
7 held by the infection prevention and control committee<sup>1</sup> .

8       f. (1) An infection preventionist assigned to a long-term care  
9 facility's infection <sup>1</sup>prevention and<sup>1</sup> control committee pursuant to  
10 subsection e. of this section shall be a managerial employee <sup>1</sup>["and  
11 shall be employed at least part-time at a long-term care facility with a  
12 licensed bed capacity equal to 100 beds or less or full-time at a long-  
13 term care facility with a licensed bed capacity equal to 101 beds or  
14 more"]<sup>1 2</sup> and shall be employed:

15       (a) in the case of a long-term care facility with a licensed bed  
16 capacity equal to 100 or fewer beds, on at least a part time basis; and

17       (b) in the case of a long-term care facility with a licensed bed  
18 capacity equal to more than 100 beds or that provides on-site  
19 hemodialysis services, on a full-time basis<sup>2</sup> .

20       <sup>2</sup>(2)<sup>2</sup> The infection preventionist shall report directly to the  
21 <sup>1</sup>["chief executive officer and the board"] administrator<sup>1</sup> of the long-  
22 term care facility <sup>1</sup>["as applicable,"] and shall provide the <sup>1</sup>["chief  
23 executive officer and board, as applicable,"] administrator<sup>1</sup> quarterly  
24 reports detailing the effectiveness of the long-term care facility's  
25 infection prevention policies.

26       <sup>2</sup>[(2)] (3)<sup>2</sup> The infection preventionist shall be responsible for:

27       (a) <sup>1</sup>["developing"] contributing to the development of<sup>1</sup> policies,  
28 procedures, and a training curriculum for long-term care facility staff  
29 based on best practices and clinical expertise; <sup>1</sup>["and"]<sup>1</sup>

30       (b) monitoring the implementation of infection prevention <sup>1</sup>and  
31 control<sup>1</sup> policies and <sup>1</sup>["instituting"] recommending<sup>1</sup> disciplinary  
32 measures for staff who routinely violate those policies <sup>1</sup>; and

33       (c) assessing the facility's infection prevention and control  
34 program by conducting internal quality improvement audits<sup>1</sup> .

35       <sup>3</sup>(4) A long-term facility that is unable to hire an infection  
36 preventionist on a full-time or part-time basis may contract with an  
37 infection preventionist on a consultative basis until <sup>4</sup>["October 1,  
38 2021"] February 1, 2022<sup>4</sup> . A long-term care facility shall provide  
39 notice to the Department of Health, within 60 days after the effective  
40 date of P.L. , c. (C. ) (pending before the Legislature as this  
41 bill), if the facility is unable to hire an infection preventionist on a full-  
42 time or part-time basis and if the facility has contracted with an  
43 infection preventionist on a consultative basis. A long-term care  
44 facility shall hire an infection preventionist on a full-time or part-time  
45 basis after <sup>4</sup>["October 1, 2021"] February 1, 2022, except that the  
46 Department of Health may waive this requirement if a long-term care

1 facility is unable to hire an infection preventionist following the  
 2 facility's good faith efforts to hire an infection preventionist<sup>4, 3</sup>

3 g. <sup>1</sup>**[A]** Each<sup>1</sup> long-term care facility <sup>1</sup>[, which develops an  
 4 outbreak response plan pursuant to this section,]<sup>1</sup> shall publish the  
 5 <sup>1</sup>facility's outbreak response<sup>1</sup> plan on its Internet website <sup>3</sup>if the  
 6 facility maintains an Internet website<sup>3 1</sup>, distribute copies of the plan to  
 7 residents and their families upon admission to the facility, and provide  
 8 notice to residents and their families any time the facility makes  
 9 material changes to its plan<sup>1</sup> . <sup>3</sup>Each long-term care facility shall make  
 10 its outbreak response plan available upon request if the facility does  
 11 not maintain an Internet website.<sup>3</sup>

12 h. <sup>1</sup>**[A]** Each<sup>1</sup> long-term care facility <sup>1</sup>[, which develops an  
 13 outbreak response plan pursuant to this section,]<sup>1</sup> shall annually  
 14 perform preparedness drills to evaluate the effectiveness of its  
 15 outbreak response plan.

16 (cf: <sup>1</sup>**[P.L.2019, c.243, s.1]** P.L.2020, c.87, s.7<sup>1</sup>)

17  
 18 <sup>3</sup>2. a. (New section) As used in this section:

19 "Assisted living facility" means an assisted living residence  
 20 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

21 "Cohorting" means the practice of grouping patients who are or are  
 22 not colonized or infected with the same organism to confine their care  
 23 to one area and prevent contact with other patients.

24 <sup>4</sup>"Comprehensive personal care home " means a comprehensive  
 25 personal care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et  
 26 seq.).

27 "Dementia care home" means a dementia care home licensed  
 28 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).<sup>4</sup>

29 "Department" means the Department of Health.

30 "Endemic level" means the usual level of given disease in a  
 31 geographic area.

32 <sup>4</sup>"Facility" means an assisted living facility, a comprehensive  
 33 personal care home, a dementia care home, or a residential health care  
 34 facility.<sup>4</sup>

35 "Isolating" means the process of separating sick, contagious  
 36 persons from those who are not sick.

37 "Outbreak" means any unusual occurrence of disease or any  
 38 disease above background or endemic levels.

39 <sup>4</sup>"Residential health care facility" means a residential health care  
 40 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).<sup>4</sup>

41 b. Notwithstanding any provision of law to the contrary, as a  
 42 condition of licensure, the department shall require <sup>4</sup>**[assisted living]**<sup>4</sup>  
 43 facilities to develop an outbreak response plan within 180 days after  
 44 the effective date of this act, which plan shall be customized to the  
 45 facility, based upon national standards and developed in consultation  
 46 with the facility's infection prevention and control committee. At a  
 47 minimum, each facility's plan shall include, but shall not be limited to:

1       (1) a protocol for isolating and cohorting infected and at-risk  
2 residents in the event of an outbreak of a contagious disease until the  
3 cessation of the outbreak;

4       (2) clear policies for the notification of residents, residents'  
5 families, visitors, and staff in the event of an outbreak of a contagious  
6 disease at a facility;

7       (3) information on the availability of laboratory testing, protocols  
8 for assessing whether facility visitors are ill, protocols to require ill  
9 staff to not present at the facility for work duties, and processes for  
10 implementing evidence-based outbreak response measures;

11       (4) policies to conduct routine monitoring of residents and staff to  
12 quickly identify signs of a communicable disease that could develop  
13 into an outbreak;

14       (5) policies for reporting outbreaks to public health officials in  
15 accordance with applicable laws and regulations; and

16       (6) a documented strategy for securing more staff in the event of  
17 an outbreak of infectious disease among staff or another emergent or  
18 non-emergent situation affecting staffing levels at the facility during  
19 an outbreak of an infectious disease.

20       c. (1) In addition to the requirements set forth in subsection b. of  
21 this section, the department shall require <sup>4</sup>assisted living facilities a  
22 facility<sup>4</sup> to include in the facility's outbreak response plan written  
23 policies to meet staffing, training, and facility demands during an  
24 infectious disease outbreak to successfully implement the outbreak  
25 response plan, including employing an individual who meets the  
26 requirements of paragraph of (1) subsection e. of this section.

27       (2) Each <sup>4</sup>assisted living<sup>4</sup> facility that has not previously  
28 submitted an outbreak response plan to the department shall submit an  
29 outbreak response plan to the department for verification as provided  
30 in paragraph (3) of this subsection.

31       (3) The department shall verify that the outbreak response plans  
32 submitted by <sup>4</sup>assisted living<sup>4</sup> facilities are in compliance with the  
33 requirements of subsection b. of this section and with the requirements  
34 of paragraph (1) of this subsection.

35       (4) The department shall have the authority to require any  
36 <sup>4</sup>assisted living<sup>4</sup> facility to revise its outbreak response plan as  
37 needed to come into compliance with the requirements of subsection b.  
38 of this section and the requirements of paragraph (1) of this subsection.  
39 The department may assess civil penalties or take other administrative  
40 actions against a facility in the event the department determines the  
41 facility is not in compliance with the requirements of this section.

42       d. (1) Each <sup>4</sup>assisted living<sup>4</sup> facility shall review and, if  
43 necessary, update its outbreak response plan on an annual basis.

44       (2) If <sup>4</sup>an assisted living<sup>4</sup> a<sup>4</sup> facility makes any material changes  
45 to its outbreak response plan, the facility shall, within 30 days after  
46 completing the material change, submit to the department an updated  
47 outbreak response plan. The department shall, upon receiving an

1 updated outbreak response plan, verify that the plan is compliant with  
2 the requirements of subsections b. and c. of this section.

3 e. (1) The department shall require each <sup>4</sup>[assisted living]<sup>4</sup>  
4 facility to establish an infection prevention and control committee and  
5 assign to the facility's infection prevention and control committee an  
6 individual designated as the infection preventionist who is a licensed  
7 health care provider and who possesses five years of experience in  
8 infection control, or an individual who has successfully completed an  
9 online infection prevention course through the federal Centers for  
10 Disease Control and Prevention or the American Health Care  
11 Association course with a valid certificate therefrom.

12 (2) The infection prevention and control committee shall meet on  
13 at least a quarterly basis. The infection preventionist assigned to the  
14 committee pursuant to this subsection shall attend all of the meetings  
15 held by the infection prevention and control committee.

16 f. (1) An infection preventionist assigned to <sup>4</sup>[an assisted living]  
17 a <sup>4</sup> facility's infection prevention and control committee pursuant to  
18 subsection e. of this section shall be a managerial employee and:

19 (a) in the case of <sup>4</sup>[an assisted living] a <sup>4</sup> facility with multiple  
20 locations, the facility shall be permitted to employ one full-time  
21 infection preventionist who shall be responsible for up to five  
22 locations; and

23 (b) in the case of <sup>4</sup>[an assisted living] a <sup>4</sup> facility located in the  
24 same building <sup>4</sup>or on the same property<sup>4</sup> as a nursing home or <sup>4</sup>[an  
25 assisted living] a <sup>4</sup> facility that is located within a continuing care  
26 retirement community, the <sup>4</sup>[assisted living]<sup>4</sup> facility shall be  
27 permitted to hire one full-time infection control preventionist who will  
28 be responsible for the <sup>4</sup>[assisted living]<sup>4</sup> facility and the nursing home  
29 or for the <sup>4</sup>[assisted living]<sup>4</sup> facility and the continuing care  
30 retirement community.

31 (2) The infection preventionist shall report directly to the  
32 administrator of the <sup>4</sup>[assisted living]<sup>4</sup> facility and shall provide the  
33 administrator quarterly reports detailing the effectiveness of the  
34 <sup>4</sup>[assisted living]<sup>4</sup> facility's infection prevention policies.

35 (3) The infection preventionist shall be responsible for:

36 (a) contributing to the development of policies, procedures, and a  
37 training curriculum for <sup>4</sup>[assisted living]<sup>4</sup> facility staff based on best  
38 practices and clinical expertise;

39 (b) monitoring the implementation of infection prevention and  
40 control policies and recommending disciplinary measures for staff who  
41 routinely violate those policies;

42 (c) assessing the facility's infection prevention and control  
43 program by conducting internal quality improvement audits;

44 (d) directly training all <sup>4</sup>[assisted living facility's]<sup>4</sup> employees in  
45 infection prevention at such intervals as determined by the department.

46 (4) <sup>4</sup>[An assisted living residence] A facility<sup>4</sup> that is unable to hire  
47 an infection preventionist on a full-time or part-time basis may



1 contract with an infection preventionist on a consultative basis until  
2 <sup>4</sup>[October 1, 2021] February 1, 2022<sup>4</sup>. <sup>4</sup>[An assisted living  
3 residence] A facility<sup>4</sup> shall provide notice to the Department of  
4 Health, within 60 days after the effective date of P.L. , c. (C. )  
5 (pending before the Legislature as this bill), if the facility is unable to  
6 hire an infection preventionist on a full-time or part-time basis and if  
7 the facility has contracted with an infection preventionist on a  
8 consultative basis. <sup>4</sup>[An assisted living residence] A facility<sup>4</sup> shall  
9 hire an infection preventionist on a full-time or part-time basis after  
10 <sup>4</sup>[October 1, 2021] February 1, 2022, except that the Department of  
11 Health may waive this requirement if a facility is unable to hire an  
12 infection preventionist following the facility's good faith efforts to hire  
13 an infection preventionist<sup>4</sup>.

14 g. Each <sup>4</sup>[assisted living]<sup>4</sup> facility shall publish the facility's  
15 outbreak response plan on its Internet website if the facility maintains  
16 an Internet website, distribute copies of the plan to residents and their  
17 families upon admission to the facility, and provide notice to residents  
18 and their families any time the facility makes material changes to its  
19 plan. Each <sup>4</sup>[assisted living]<sup>4</sup> facility shall make its outbreak  
20 response plan available upon request if the facility does not maintain  
21 an Internet website.

22 h. Each <sup>4</sup>[assisted living]<sup>4</sup> facility shall annually perform  
23 preparedness drills to evaluate the effectiveness of its outbreak  
24 response plan.

25 i. Each <sup>4</sup>[assisted living]<sup>4</sup> facility shall designate employees  
26 who receive special training in infection control and who shall be  
27 representative of the facility's staff, including certified nurse aides,  
28 licensed practical nurses, and registered nurses. Such employees shall  
29 assist training staff, distribute infection control information, assist with  
30 infection control implementation and policy development, and  
31 participate in quarterly infection control training exercises to maintain  
32 competency in using personal protection equipment.<sup>3</sup>

33  
34 <sup>3</sup>[2.] 3.<sup>3</sup> This act shall take effect immediately.