

P.L. 2021, CHAPTER 190, *approved August 5, 2021*
Senate, No. 2798 (*Fourth Reprint*)

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
11 are not colonized or infected with the same organism to confine
12 their care 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, ³[assisted
19 living residence,]³ ⁴[comprehensive personal care home, residential
20 health care facility, or dementia care home]⁴ licensed pursuant to
21 P.L.1971, 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
32 consultation with the facility's infection ¹prevention and¹ control
33 committee ²[], if the facility has established an infection ¹prevention
34 and¹ control [committee²] committee]² . At a minimum, each
35 facility's plan shall include, but shall not be limited to:

36 (1) a protocol for isolating and cohorting infected and at-risk
37 ²[patients] residents² in the event of an outbreak of a contagious
38 disease until the cessation of the outbreak;

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:

¹Assembly AHE committee amendments adopted October 22, 2020.

²Assembly floor amendments adopted October 29, 2020.

³Assembly floor amendments adopted March 25, 2021.

⁴Assembly floor amendments adopted June 3, 2021.

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

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

9 (4) policies to conduct routine monitoring of residents and staff
10 to quickly identify signs of a communicable disease that could
11 develop into an outbreak; ¹and

12 (5) policies for reporting outbreaks to public health officials in
13 accordance with applicable laws and regulations ¹; and

14 (6) a documented strategy for securing more staff in the event of
15 an outbreak of infectious disease among staff or another emergent
16 or non-emergent situation affecting staffing levels at the facility
17 during an outbreak of an infectious disease¹ .

18 c. (1) In addition to the requirements set forth in subsection b.
19 of this section, the department shall require long-term care facilities
20 **that provide care to ventilator-dependent residents** to include in
21 the facility's outbreak response plan written policies to meet
22 staffing, training, and facility demands during an infectious disease
23 outbreak to successfully implement the outbreak response plan,
24 including ¹**either**¹ employing ¹**on a full-time or part-time basis,**
25 **or contracting with on a consultative basis,**¹ the following
26 individuals:

27 (a) an individual ¹**certified by the Certification Board of**
28 **Infection Control and Epidemiology** who meets the requirements
29 of subparagraph (b) of paragraph (1) of subsection e. of this section
30 ²**, who shall be employed:**

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

33 (ii) on a full-time basis in the case of a long-term care facility
34 with a licensed bed capacity equal to more than 100 beds or that
35 provides on-site hemodialysis services¹² ; and

36 (b) a physician who ¹**has completed an infectious disease**
37 **fellowship** meets the requirements of subparagraph (a) of
38 paragraph (1) of subsection e. of this section ²**, who may be**
39 **employed on a full-time or part-time basis or contracted with on a**
40 **consultative basis**¹² .

41 (2) Each ¹**long-term care facility** nursing home that has not
42 previously submitted an outbreak response plan to the department¹
43 **that provides care to ventilator-dependent residents** shall submit
44 ¹an outbreak response plan¹ to the department ¹**the facility's**
45 **outbreak response plan within 180 days after the effective date of**
46 **this act** for verification as provided in paragraph (3) of this
47 subsection¹ .

(3) The department shall verify that the outbreak response plans submitted by ¹‘[long-term care facilities] nursing homes’ ¹ [that provide care to ventilator-dependent residents] are in compliance with the requirements of subsection b. of this section and with the requirements of paragraph (1) of this subsection.

¹(4) The department shall have the authority to require any long-term care facility to revise its outbreak response plan as needed to come into compliance with the requirements of subsection b. of this section and the requirements of paragraph (1) of this subsection. The department may assess civil penalties or take other administrative actions against a facility in the event the department determines the facility is not in compliance with the requirements of this section.¹

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

d. (1) Each long-term care facility ¹‘[that submits an outbreak response plan to the department pursuant to subsection c. of this section]’ shall review ³and, if necessary, update³ ¹‘[the] its outbreak response’¹ plan on an annual basis.

(2) If a ¹‘[long-term care facility] nursing home’ ¹ [that provides care to ventilator-dependent residents] makes any material changes to its outbreak response plan, the ¹‘[facility] nursing home’ shall, within 30 days after completing the material change, submit to the department an updated outbreak response plan. The department shall, upon receiving an updated outbreak response plan, verify that the plan is compliant with the requirements of subsections b. and c. of this section.

e. (1) The department shall require ¹‘[a] each long-term care facility [that provides care to ventilator-dependent residents] to ²establish an infection prevention and control committee and² assign to the facility's infection ¹prevention and¹ control committee ¹‘[on a full-time or part-time basis, or on a consultative basis]’¹ :

(a) [an who is] a physician who has completed an infectious disease fellowship ², who shall be employed on a full-time or part time basis or contracted with on a consultative basis²; and

(b) an individual designated as the infection [control coordinator,] preventionist who ²;

(i)² has [education, training, completed course work, or experience in infection control or] primary professional training in

1 medicine, nursing, medical technology, microbiology,
 2 epidemiology, [including] or a related field ²[.];

3 (ii) ² is qualified by education, training, ¹and at least five years
 4 of infection control ¹ experience, or ²by ² certification in infection
 5 control by the Certification Board of Infection Control and
 6 Epidemiology ²[.];

7 (iii) is employed by the facility consistent with the
 8 requirements of subsection f. of this section; ² and

9 ²(iv) ² has completed specialized training in infection prevention
 10 and control.

11 ¹(2) ¹ The infection ¹prevention and ¹ control committee shall
 12 meet on at least a quarterly basis ¹[and both individuals] ¹ . The
 13 physician ¹ assigned to the committee pursuant to this subsection
 14 shall attend at least half of the meetings held by the infection
 15 ¹prevention and ¹ control committee ¹ , and the infection
 16 preventionist assigned to the committee pursuant to this subsection
 17 shall attend all of the meetings held by the infection prevention and
 18 control committee ¹ .

19 f. (1) An infection preventionist assigned to a long-term care
 20 facility's infection ¹prevention and ¹ control committee pursuant to
 21 subsection e. of this section shall be a managerial employee ¹[and
 22 shall be employed at least part-time at a long-term care facility with
 23 a licensed bed capacity equal to 100 beds or less or full-time at a
 24 long-term care facility with a licensed bed capacity equal to 101
 25 beds or more] ¹ ²and shall be employed:

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

29 (b) in the case of a long-term care facility with a licensed bed
 30 capacity equal to more than 100 beds or that provides on-site
 31 hemodialysis services, on a full-time basis ² .

32 ²(2) ² The infection preventionist shall report directly to the
 33 ¹[chief executive officer and the board] ¹ administrator ¹ of the long-
 34 term care facility ¹[, as applicable,] ¹ and shall provide the ¹[chief
 35 executive officer and board, as applicable,] ¹ administrator ¹ quarterly
 36 reports detailing the effectiveness of the long-term care facility's
 37 infection prevention policies.

38 ²[(2)] (3) ² The infection preventionist shall be responsible for:

39 (a) ¹[developing] ¹ contributing to the development of ¹ policies,
 40 procedures, and a training curriculum for long-term care facility
 41 staff based on best practices and clinical expertise; ¹[and] ¹

42 (b) monitoring the implementation of infection prevention ¹and
 43 control ¹ policies and ¹[instituting] ¹ recommending ¹ disciplinary
 44 measures for staff who routinely violate those policies ¹; and

45 (c) assessing the facility's infection prevention and control
 46 program by conducting internal quality improvement audits ¹ .

³(4) A long-term facility that is unable to hire an infection preventionist on a full-time or part-time basis may contract with an infection preventionist on a consultative basis until ⁴[October 1, 2021] February 1, 2022⁴. A long-term care facility shall provide notice to the Department of Health, within 60 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), if the facility is unable to hire an infection preventionist on a full-time or part-time basis and if the facility has contracted with an infection preventionist on a consultative basis. A long-term care facility shall hire an infection preventionist on a full-time or part-time basis after ⁴[October 1, 2021] February 1, 2022, except that the Department of Health may waive this requirement if a long-term care facility is unable to hire an infection preventionist following the facility's good faith efforts to hire an infection preventionist^{4, 3}.

g. ¹[A] Each¹ long-term care facility ¹[, which develops an outbreak response plan pursuant to this section,]¹ shall publish the ¹facility's outbreak response¹ plan on its Internet website ³if the facility maintains an Internet website^{3, 1}, distribute copies of the plan to residents and their families upon admission to the facility, and provide notice to residents and their families any time the facility makes material changes to its plan¹. ³Each long-term care facility shall make its outbreak response plan available upon request if the facility does not maintain an Internet website.³

h. ¹[A] Each¹ long-term care facility ¹[, which develops an outbreak response plan pursuant to this section,]¹ shall annually perform preparedness drills to evaluate the effectiveness of its outbreak response plan.

(cf: ¹[P.L.2019, c.243, s.1] P.L.2020, c.87, s.7¹)

³2. a. (New section) As used in this section:

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

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

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

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

"Department" means the Department of Health.

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

⁴"Facility" means an assisted living facility, a comprehensive personal care home, a dementia care home, or a residential health care facility.⁴

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

3 "Outbreak" means any unusual occurrence of disease or any
4 disease above background or endemic levels.

5 ⁴"Residential health care facility" means a residential health care
6 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).⁴

7 b. Notwithstanding any provision of law to the contrary, as a
8 condition of licensure, the department shall require ⁴[assisted
9 living]⁴ facilities to develop an outbreak response plan within 180
10 days after the effective date of this act, which plan shall be
11 customized to the facility, based upon national standards and
12 developed in consultation with the facility's infection prevention
13 and control committee. At a minimum, each facility's plan shall
14 include, but shall not be limited to:

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

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

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

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

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

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

35 c. (1) In addition to the requirements set forth in subsection b.
36 of this section, the department shall require ⁴[assisted living
37 facilities] a facility⁴ to include in the facility's outbreak response
38 plan written policies to meet staffing, training, and facility demands
39 during an infectious disease outbreak to successfully implement the
40 outbreak response plan, including employing an individual who
41 meets the requirements of paragraph of (1) subsection e. of this
42 section.

43 (2) Each ⁴[assisted living]⁴ facility that has not previously
44 submitted an outbreak response plan to the department shall submit
45 an outbreak response plan to the department for verification as
46 provided in paragraph (3) of this subsection.

47 (3) The department shall verify that the outbreak response plans
48 submitted by ⁴[assisted living]⁴ facilities are in compliance with

1 the requirements of subsection b. of this section and with the
2 requirements of paragraph (1) of this subsection.

3 (4) The department shall have the authority to require any
4 ⁴[assisted living]⁴ facility to revise its outbreak response plan as
5 needed to come into compliance with the requirements of
6 subsection b. of this section and the requirements of paragraph (1)
7 of this subsection. The department may assess civil penalties or
8 take other administrative actions against a facility in the event the
9 department determines the facility is not in compliance with the
10 requirements of this section.

11 d. (1) Each ⁴[assisted living]⁴ facility shall review and, if
12 necessary, update its outbreak response plan on an annual basis.

13 (2) If ⁴[an assisted living] a⁴ facility makes any material
14 changes to its outbreak response plan, the facility shall, within 30
15 days after completing the material change, submit to the department
16 an updated outbreak response plan. The department shall, upon
17 receiving an updated outbreak response plan, verify that the plan is
18 compliant with the requirements of subsections b. and c. of this
19 section.

20 e. (1) The department shall require each ⁴[assisted living]⁴
21 facility to establish an infection prevention and control committee
22 and assign to the facility's infection prevention and control
23 committee an individual designated as the infection preventionist
24 who is a licensed health care provider and who possesses five years
25 of experience in infection control, or an individual who has
26 successfully completed an online infection prevention course
27 through the federal Centers for Disease Control and Prevention or
28 the American Health Care Association course with a valid
29 certificate therefrom.

30 (2) The infection prevention and control committee shall meet
31 on at least a quarterly basis. The infection preventionist assigned to
32 the committee pursuant to this subsection shall attend all of the
33 meetings held by the infection prevention and control committee.

34 f. (1) An infection preventionist assigned to ⁴[an assisted
35 living] a⁴ facility's infection prevention and control committee
36 pursuant to subsection e. of this section shall be a managerial
37 employee and:

38 (a) in the case of ⁴[an assisted living] a⁴ facility with multiple
39 locations, the facility shall be permitted to employ one full-time
40 infection preventionist who shall be responsible for up to five
41 locations; and

42 (b) in the case of ⁴[an assisted living] a⁴ facility located in the
43 same building ⁴or on the same property⁴ as a nursing home or ⁴[an
44 assisted living] a⁴ facility that is located within a continuing care
45 retirement community, the ⁴[assisted living]⁴ facility shall be
46 permitted to hire one full-time infection control preventionist who
47 will be responsible for the ⁴[assisted living]⁴ facility and the

1 nursing home or for the ⁴[assisted living]⁴ facility and the
2 continuing care retirement community.

3 (2) The infection preventionist shall report directly to the
4 administrator of the ⁴[assisted living]⁴ facility and shall provide the
5 administrator quarterly reports detailing the effectiveness of the
6 ⁴[assisted living]⁴ facility's infection prevention policies.

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

8 (a) contributing to the development of policies, procedures, and
9 a training curriculum for ⁴[assisted living]⁴ facility staff based on
10 best practices and clinical expertise;

11 (b) monitoring the implementation of infection prevention and
12 control policies and recommending disciplinary measures for staff
13 who routinely violate those policies;

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

16 (d) directly training all ⁴[assisted living facility's]⁴ employees
17 in infection prevention at such intervals as determined by the
18 department.

19 (4) ⁴[An assisted living residence] A facility⁴ that is unable to
20 hire an infection preventionist on a full-time or part-time basis may
21 contract with an infection preventionist on a consultative basis until
22 ⁴[October 1, 2021] February 1, 2022⁴. ⁴[An assisted living
23 residence] A facility⁴ shall provide notice to the Department of
24 Health, within 60 days after the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), if the
26 facility is unable to hire an infection preventionist on a full-time or
27 part-time basis and if the facility has contracted with an infection
28 preventionist on a consultative basis. ⁴[An assisted living
29 residence] A facility⁴ shall hire an infection preventionist on a full-
30 time or part-time basis after ⁴[October 1, 2021] February 1, 2022,
31 except that the Department of Health may waive this requirement if
32 a facility is unable to hire an infection preventionist following the
33 facility's good faith efforts to hire an infection preventionist⁴.

34 g. Each ⁴[assisted living]⁴ facility shall publish the facility's
35 outbreak response plan on its Internet website if the facility
36 maintains an Internet website, distribute copies of the plan to
37 residents and their families upon admission to the facility, and
38 provide notice to residents and their families any time the facility
39 makes material changes to its plan. Each ⁴[assisted living]⁴ facility
40 shall make its outbreak response plan available upon request if the
41 facility does not maintain an Internet website.

42 h. Each ⁴[assisted living]⁴ facility shall annually perform
43 preparedness drills to evaluate the effectiveness of its outbreak
44 response plan.

45 i. Each ⁴[assisted living]⁴ facility shall designate employees
46 who receive special training in infection control and who shall be
47 representative of the facility's staff, including certified nurse aides,

1 licensed practical nurses, and registered nurses. Such employees
2 shall assist training staff, distribute infection control information,
3 assist with infection control implementation and policy
4 development, and participate in quarterly infection control training
5 exercises to maintain competency in using personal protection
6 equipment.³

7

8 ³[2.] 3.³ This act shall take effect immediately.

9

10

11

12

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