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SENATE, No. 2798

STATE OF NEW JERSEY
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SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the General Assembly on October 29, 2020.



(Sponsorship Updated As Of: 8/27/2020)

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, assisted living
19 residence, comprehensive personal care home, residential health
20 care facility, or dementia care home 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
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** committee² **]**. 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"] residents**² 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
41 contagious disease at a facility;

42 (3) information on the availability of laboratory testing,
43 protocols for assessing whether facility visitors are ill, protocols to
44 require ill staff to not present at the facility for work duties, and

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.

1 processes for implementing evidence-based outbreak response
2 measures;

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

6 (5) policies for reporting outbreaks to public health officials in
7 accordance with applicable laws and regulations ¹; 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
10 or non-emergent situation affecting staffing levels at the facility
11 during an outbreak of an infectious disease¹ .

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

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

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

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

30 (b) a physician who ¹**has completed an infectious disease**
31 **fellowship** meets the requirements of subparagraph (a) of
32 paragraph (1) of subsection e. of this section ²**, who may be**
33 employed on a full-time or part-time basis or contracted with on a
34 consultative basis¹² .

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

42 (3) The department shall verify that the outbreak response plans
43 submitted by ¹**long-term care facilities** nursing homes¹ **that**
44 **provide care to ventilator-dependent residents** are in compliance
45 with the requirements of subsection b. of this section and with the
46 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

d. (1) Each long-term care facility ¹that submits an outbreak response plan to the department pursuant to subsection c. of this section¹ shall review ¹the¹ its outbreak response¹ plan on an annual basis.

(2) If a ¹long-term care facility¹ nursing home¹ that provides care to ventilator-dependent residents makes any material changes to its outbreak response plan, the ¹facility¹ nursing home¹ 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 ¹a¹ 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 ¹on a full-time or part-time basis, or on a consultative basis¹ :

(a) ¹an who is¹ 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 medicine, nursing, medical technology, microbiology, epidemiology, [including] or a related field ²[.] ;

(ii)² is qualified by education, training, ¹and at least five years of infection control¹ experience, or ²by² certification in infection control by the Certification Board of Infection Control and Epidemiology ²[.] ;

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

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

¹(2)¹ The infection ¹prevention and¹ control committee shall meet on at least a quarterly basis ¹and both individuals¹ . The physician¹ assigned to the committee pursuant to this subsection shall attend at least half of the meetings held by the infection

¹prevention and¹ control committee ¹, and the infection preventionist assigned to the committee pursuant to this subsection shall attend all of the meetings held by the infection prevention and control committee¹ .

f. (1) An infection preventionist assigned to a long-term care facility's infection ¹prevention and¹ control committee pursuant to subsection e. of this section shall be a managerial employee ¹and shall be employed at least part-time at a long-term care facility with a licensed bed capacity equal to 100 beds or less or full-time at a long-term care facility with a licensed bed capacity equal to 101 beds or more^{1 2}and shall be employed:

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

(b) in the case of a long-term care facility with a licensed bed capacity equal to more than 100 beds or that provides on-site hemodialysis services, on a full-time basis² .

²(2)² The infection preventionist shall report directly to the ¹chief executive officer and the board¹ administrator¹ of the long-term care facility ¹[, as applicable,]¹ and shall provide the ¹chief executive officer and board, as applicable,¹ administrator¹ quarterly reports detailing the effectiveness of the long-term care facility's infection prevention policies.

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

(a) ¹developing¹ contributing to the development of¹ policies, procedures, and a training curriculum for long-term care facility staff based on best practices and clinical expertise; ¹and¹

(b) monitoring the implementation of infection prevention ¹and control¹ policies and ¹instituting¹ recommending¹ disciplinary measures for staff who routinely violate those policies ¹; and

(c) assessing the facility's infection prevention and control program by conducting internal quality improvement audits¹ .

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 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 .

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)

2. This act shall take effect immediately.