

[Third Reprint]

SENATE, No. 2798

STATE OF NEW JERSEY
219th LEGISLATURE

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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 March 25, 2021.



(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, ³**[**assisted
19 living residence,**]**³ comprehensive personal care home, residential
20 health care facility, or dementia care home 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**]** committee²**]**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**[**patients²**]** residents² 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.

³Assembly floor amendments adopted March 25, 2021.

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; ¹and¹

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 ¹either¹ employing ¹on a full-time or part-time basis,
19 or contracting with on a consultative basis,¹ the following
20 individuals:

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

35 (2) Each ¹long-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 ¹the 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 ¹long-term care facilities **nursing homes**¹ **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

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 ¹that submits an outbreak response plan to the department pursuant to subsection c. of this section¹ shall review ³and, if necessary, update³ 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) 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 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

1 control by the Certification Board of Infection Control and
2 Epidemiology ² **1**;

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

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

7 ¹(2) ¹ The infection ¹prevention and ¹ control committee shall
8 meet on at least a quarterly basis ¹ **1** and both individuals **1** . The
9 physician ¹ assigned to the committee pursuant to this subsection
10 shall attend at least half of the meetings held by the infection
11 ¹prevention and ¹ control committee ¹, and the infection
12 preventionist assigned to the committee pursuant to this subsection
13 shall attend all of the meetings held by the infection prevention and
14 control committee ¹ .

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

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

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

28 ²(2) ² The infection preventionist shall report directly to the
29 ¹ **1** chief executive officer and the board **1** administrator ¹ of the long-
30 term care facility ¹ **1**, as applicable, **1** and shall provide the ¹ **1** chief
31 executive officer and board, as applicable, **1** administrator ¹ quarterly
32 reports detailing the effectiveness of the long-term care facility's
33 infection prevention policies.

34 ² **1** (2) ² (3) ² The infection preventionist shall be responsible for:

35 (a) ¹ **1** developing **1** contributing to the development of ¹ policies,
36 procedures, and a training curriculum for long-term care facility
37 staff based on best practices and clinical expertise; ¹ **1** and ¹

38 (b) monitoring the implementation of infection prevention ¹ and
39 control ¹ policies and ¹ **1** instituting **1** recommending ¹ disciplinary
40 measures for staff who routinely violate those policies ¹; and

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

43 ³(4) A long-term facility that is unable to hire an infection
44 preventionist on a full-time or part-time basis may contract with an
45 infection preventionist on a consultative basis until October 1,
46 2021. A long-term care facility shall provide notice to the

1 Department of Health, within 60 days after the effective date of
 2 P.L. , c. (C.) (pending before the Legislature as this bill),
 3 if the facility is unable to hire an infection preventionist on a full-
 4 time or part-time basis and if the facility has contracted with an
 5 infection preventionist on a consultative basis. A long-term care
 6 facility shall hire an infection preventionist on a full-time or part-
 7 time basis after October 1, 2021.³

8 g. ¹["A] Each¹ long-term care facility¹ [, which develops an
 9 outbreak response plan pursuant to this section,]¹ shall publish the
 10 'facility's outbreak response'¹ plan on its Internet website³ if the
 11 facility maintains an Internet website³ ¹, distribute copies of the
 12 plan to residents and their families upon admission to the facility,
 13 and provide notice to residents and their families any time the
 14 facility makes material changes to its plan¹ .³ Each long-term care
 15 facility shall make its outbreak response plan available upon request
 16 if the facility does not maintain an Internet website.³

17 h. ¹["A] Each¹ long-term care facility¹ [, which develops an
 18 outbreak response plan pursuant to this section,]¹ shall annually
 19 perform preparedness drills to evaluate the effectiveness of its
 20 outbreak response plan.

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

22
 23 ³2. a. (New section) As used in this section:

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

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

29 "Department" means the Department of Health.

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

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

34 "Outbreak" means any unusual occurrence of disease or any
 35 disease above background or endemic levels.

36 b. Notwithstanding any provision of law to the contrary, as a
 37 condition of licensure, the department shall require assisted living
 38 facilities to develop an outbreak response plan within 180 days after
 39 the effective date of this act, which plan shall be customized to the
 40 facility, based upon national standards and developed in
 41 consultation with the facility's infection prevention and control
 42 committee. At a minimum, each facility's plan shall include, but
 43 shall not be limited to:

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

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;

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

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

25 (2) Each assisted living facility that has not previously
26 submitted an outbreak response plan to the department shall submit
27 an outbreak response plan to the department for verification as
28 provided in paragraph (3) of this subsection.

29 (3) The department shall verify that the outbreak response plans
30 submitted by assisted living facilities are in compliance with the
31 requirements of subsection b. of this section and with the
32 requirements of paragraph (1) of this subsection.

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

41 d. (1) Each assisted living facility shall review and, if
42 necessary, update its outbreak response plan on an annual basis.

43 (2) If an assisted living facility makes any material changes to
44 its outbreak response plan, the facility shall, within 30 days after
45 completing the material change, submit to the department an
46 updated outbreak response plan. The department shall, upon
47 receiving an updated outbreak response plan, verify that the plan is
48 compliant with the requirements of subsections b. and c. of this
49 section.

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

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

15 f. (1) An infection preventionist assigned to an assisted living
16 facility's infection prevention and control committee pursuant to
17 subsection e. of this section shall be a managerial employee and:

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

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

29 (2) The infection preventionist shall report directly to the
30 administrator of the assisted living facility and shall provide the
31 administrator quarterly reports detailing the effectiveness of the
32 assisted living facility's infection prevention policies.

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

34 (a) contributing to the development of policies, procedures, and
35 a training curriculum for assisted living facility staff based on best
36 practices and clinical expertise;

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

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

42 (d) directly training all assisted living facility's employees in
43 infection prevention at such intervals as determined by the
44 department.

45 (4) An assisted living residence that is unable to hire an
46 infection preventionist on a full-time or part-time basis may
47 contract with an infection preventionist on a consultative basis until
48 October 1, 2021. An assisted living residence shall provide notice to
49 the Department of Health, within 60 days after the effective date of

- 1 P.L. , c. (C.) (pending before the Legislature as this bill),
2 if the facility is unable to hire an infection preventionist on a full-
3 time or part-time basis and if the facility has contracted with an
4 infection preventionist on a consultative basis. An assisted living
5 residence shall hire an infection preventionist on a full-time or part-
6 time basis after October 1, 2021.
- 7 g. Each assisted living facility shall publish the facility's
8 outbreak response plan on its Internet website if the facility
9 maintains an Internet website, distribute copies of the plan to
10 residents and their families upon admission to the facility, and
11 provide notice to residents and their families any time the facility
12 makes material changes to its plan. Each assisted living facility
13 shall make its outbreak response plan available upon request if the
14 facility does not maintain an Internet website.
- 15 h. Each assisted living facility shall annually perform
16 preparedness drills to evaluate the effectiveness of its outbreak
17 response plan.
- 18 i. Each assisted living facility shall designate employees who
19 receive special training in infection control and who shall be
20 representative of the facility's staff, including certified nurse aides,
21 licensed practical nurses, and registered nurses. Such employees
22 shall assist training staff, distribute infection control information,
23 assist with infection control implementation and policy
24 development, and participate in quarterly infection control training
25 exercises to maintain competency in using personal protection
26 equipment.³
- 27
- 28 ³[2.] 3.³ This act shall take effect immediately.