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CHAPTER 87

An Act concerning the State's response to outbreaks, epidemics, and pandemics involving infectious diseases and supplementing Title 26 of the Revised Statutes and P.L.2005, c.222 (C.26:13-1 et seq.).

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

C.26:2H-12.90 Long-Term Care Emergency Operations Center (LTCEOC)

1. a. There is established in the Department of Health the Long-Term Care Emergency Operations Center (LTCEOC), which shall serve as the centralized command and resource center for long-term care facility response efforts and communications during a declared public health emergency affecting or likely to affect one or more long-term care facilities. The LTCEOC shall enhance and integrate with existing State, county, and local emergency response systems.

b. The Department of Health shall have primary responsibility for the operations of the LTCEOC, but the Department of Human Services and other appropriate State agencies shall provide any staff support as shall be requested by the Commissioner of Health. The Commissioner of Health may additionally contract with a third party entity to provide staffing services as needed. At a minimum, the Commissioner of Health shall ensure that the LTCEOC has on call at all times such appropriate staff and consultants as are needed to respond to a declared public health emergency affecting or likely to affect one or more long-term care facilities, including representatives from county and local boards of health, the Office of the New Jersey Long-Term Care Ombudsman, and the Office of Emergency Management in the New Jersey State Police, the acute and post-acute health care industry, as well as experts in public health, infection control, elder affairs, disability services, emergency response, and medical transportation.

c. The primary responsibilities of the LTCEOC shall include, but shall not be limited to:

(1) establishing ongoing, direct communication with the owners and staff of long-term care facilities, unions, advocates representing residents of long-term care facilities and their families, individuals with expertise in the needs of people with specialized health care needs, and such other stakeholders as the Commissioner of Health deems necessary and appropriate during a public health emergency affecting or likely to affect one or more long-term care facilities, which may include the use of existing communication mechanisms and feedback loops in the Department of Health's Office of Disaster Resilience or Health Systems branch, as appropriate;

(2) providing technical assistance to the long-term care industry during the public health emergency, which may be facilitated through local health departments;

(3) ensuring supplies and equipment needed to respond to the public health emergency are acquired and distributed in an effective and efficient manner among long-term care facilities;

(4) utilizing the National Healthcare Safety Network database managed by the federal Centers for Disease Control and Prevention to:

(a) identify and respond to critical staffing shortages in long-term care facilities;

(b) if applicable, identify and respond to critical personal protective equipment or ventilator shortages in long-term care facilities;

(c) monitor facility capacity; and

(d) if applicable, monitor infectious disease case counts and deaths by facility; and

(5) ensuring all policies and guidance developed by the Department of Health in response to the public health emergency are effectively communicated to all long-term care industry stakeholders.

d. In the event of a public health emergency declared in response to an infectious disease outbreak, epidemic, or pandemic affecting or likely to affect one or more long-term care facilities, the LTCEOC, in consultation with other offices within the Department of Health and the Office of Emergency Management in the New Jersey Division of State Police, shall determine the need for the establishment of regional hubs capable of accepting patients who have, and are capable of transmitting, the infectious disease and who do not require hospitalization, which hubs shall comply with State and federal guidance regarding infection control practices related to the infectious disease. In the event of a surge in number of identified cases of the infectious disease, the LTCEOC shall actively monitor capacity levels at long-term care facilities and at regional hubs established pursuant to this subsection, if any, using the National Healthcare Safety Network database managed by the federal Centers for Disease Control and Prevention, and shall take steps to direct patient placements as necessary to manage capacity levels and ensure, to the extent possible, that no regional hub or long-term care facility exceeds safe capacity levels.

e. As used in sections 1 through 5 of P.L.2020, c.87 (C.26:2H-12.90 through C.26:2H-12.94), "infectious disease" means a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, virus, or prion. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

C.26:2H-12.91 Regional medical coordination center model for disaster response.

2. a. No later than 180 days after the effective date of this act, the Department of Health shall, in consultation with the Emergency Medical Services Task Force and the Office of Emergency Management in the New Jersey Division of State Police, institute a regional medical coordination center model for disaster response to facilitate regional capacity coordination and communication across county and local boards of health, hospitals, long-term care facilities, emergency medical services providers and other first responders, and entities providing medical transportation services, in the event of a public health emergency involving an outbreak, epidemic, or pandemic involving an infectious disease. At a minimum, the model shall include a system for engaging the Level 1 trauma center in the region with long-term care facilities, federally qualified healthcare centers, home health agencies, hospice providers, medical transportation providers, emergency medical services providers and other first responders, and entities providing medical transportation services in its associated region. The Regional Level 1 Trauma Center and its associated regional medical coordination center shall make available their various clinical and non-clinical content experts and services are available for consultation and support to facilitate the implementation of evidence-based best practices and informed decision making.

b. The department shall identify appropriate sources of State, federal, and private funding to facilitate the implementation of this section, including, but not limited to, any funding or other support as may be available through the Federal Emergency Management Agency.

C.26:2H-12.92 Duties of long-term care facility during infectious disease outbreak.

3. a. During an infectious disease outbreak occurring at a long-term care facility, or an epidemic or pandemic of an infectious disease affecting or likely to affect a long-term care facility, each long-term care facility shall:

(1) separate residents who test positive for or who are suspected of having contracted the infectious disease from those who have not tested positive for, and are not suspected of having contracted, the infectious disease;

(2) follow guidance issued by the federal Centers for Disease Control and Prevention or other appropriate entities as may be identified by the Commissioner of Health with regard to determining whether a resident who has contracted the infectious disease is recovered from the infectious disease, and the appropriate procedures and protocols for interactions between those residents and staff and other residents at the facility; and

(3) comply with current orders, guidance, and directives concerning admissions and readmissions to the facility.

b. The Department of Health shall establish a mechanism by which hospitals can identify long-term care facilities that are currently accepting admissions and readmissions of residents to the facility.

C.26:2H-12.93 Available, appropriate sources of federal funding.

4. The Commissioner of Health and the Commissioner of Human Services shall take steps to ensure available and appropriate sources of federal funding provided to states in response to the COVID-19 pandemic are made available to long-term care facilities. The commissioners may condition awards of funding made pursuant to this section on long-term care facilities providing regular reports on how the funding is used, including any evidence as may be needed to confirm the facilities are complying with all terms and conditions that attach to the funding, as well as information concerning steps the facility is taking to improve the facility's preparedness and response to the COVID-19 pandemic, including establishing and updating staff and patient safety and isolation protocols, expanding access to personal protective equipment and COVID-19 testing, and making improvements to the facility's equipment and physical plant that will help prevent the spread of communicable diseases within the facility.

C.26:2H-12.94 Report to National Healthcare Safety Network database.

5. a. During a public health emergency involving an infectious disease affecting or likely to affect a long-term care facility, the long-term care facility shall report to the National Healthcare Safety Network database managed by the federal Centers for Disease Control and Prevention, at least twice per week:

(1) counts of residents and facility personnel with suspected cases of the infectious disease and who have a laboratory test confirming infection with the infectious disease;

(2) counts of residents and facility personnel whose death is suspected to have been, or was confirmed by laboratory test to have been, caused by the infectious disease;

(3) the total number of authorized resident beds and the current resident census;

(4) staffing shortages;

(5) the quantity of personal protective equipment, hand hygiene supplies, cleaning supplies, and sanitization supplies, along with an assessment of the number of days that will be supported by current inventory;

(6) for facilities with ventilator-dependent units, ventilator capacity and the quantity of ventilator supplies, along with an assessment of the number of days that will be supported by current inventory; and

(7) any other metrics as the Commissioner of Health shall require as an essential or relevant component of the State's response to the infectious disease outbreak, epidemic, or pandemic in long-term care facilities.

b. To facilitate the enforcement of P.L.2019, c.330 (C.26:2H-18.79), commencing with the onset of influenza season each year and for the duration of that influenza season, each long-term care facility and home health employer in the State shall report to the National Healthcare Safety Network database managed by the federal Centers for Disease Control and Prevention the number of employees who have received the influenza vaccination, the number of employees who have not received the influenza vaccination due to an authorized medical exemption, and the number of employees who have not received the influenza vaccination who do not have a valid medical exemption.

c. A long-term care facility that fails to submit a report required pursuant to subsection a. or subsection b. of this section shall be liable to a civil penalty of $2,000 for each report that is not submitted. A civil penalty assessed pursuant to this section shall be collected by and in the name of the Department of Health in summary proceedings before a court of competent jurisdiction pursuant to the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.26:2H-12.95 Electronic health record system.

6. a. No later than 270 days after the effective date of this act, each long-term care facility shall implement or upgrade to an electronic health record system certified by the Office of the National Coordinator for Health Information Technology in the U.S. Department of Health and Human Services that is capable of information sharing through industry standard data interoperability, including application programming interface Health Level 7 or fast healthcare interoperability technology. Use cases built on this technology shall include the bi-directional capability for admission discharge and transfer and continuity of care through the clinical data architecture. Long-term care facilities interoperability for these use cases shall be achieved by connecting to the New Jersey Health Information Network.

b. Subject to the availability of funding for this purpose, the Department of Health shall make grants available to long-term care facilities to provide assistance in implementing or upgrading to an electronic health record system that meets the requirements of subsection a. of this section, which grants shall be distributed to long-term care facilities based on demonstrated need.

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

C.26:2H-12.87 Definitions, requirements for certain long-term care facilities relative to outbreak response plans.

1. a. As used in this section:

"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.

"Department" means the Department of Health.

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

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

"Long-term care facility" means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

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

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

b. Notwithstanding any provision of law to the contrary, the department shall require long-term care facilities to develop an outbreak response plan within 180 days after the effective date of this act, which plan shall be customized to the facility, based upon national standards and developed in consultation with the facility's infection control committee, if the facility has established an infection control committee. At a minimum, each facility's plan shall include, but shall not be limited to:

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

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

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

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

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

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

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

(a) an individual certified by the Certification Board of Infection Control and Epidemiology; and

(b) a physician who has completed an infectious disease fellowship.

(2) Each long-term care facility that provides care to ventilator-dependent residents shall submit to the department the facility's outbreak response plan within 180 days after the effective date of this act.

(3) The department shall verify that the outbreak response plans submitted by long-term care facilities 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.

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

(2) If a long-term care facility that provides care to ventilator-dependent residents makes any material changes to its outbreak response plan, the facility 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 a long-term care facility that provides care to ventilator-dependent residents to assign to the facility's infection control committee on a full-time or part-time basis, or on a consultative basis:

(a) an individual who is a physician who has completed an infectious disease fellowship; and

(b) an individual designated as the infection control coordinator, who has education, training, completed course work, or experience in infection control or epidemiology, including certification in infection control by the Certification Board of Infection Control and Epidemiology. The infection control committee shall meet on at least a quarterly basis and both individuals assigned to the committee pursuant to this subsection shall attend at least half of the meetings held by the infection control committee.

8. No later than 18 months after the effective date of this act, the Commissioner of Health shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, concerning the implementation of the provisions of this act and any recommendations for appropriate legislative or administrative actions as may be appropriate to advance or improve the State's infectious disease planning, preparedness, and response.

9. This act shall take effect immediately.

Approved September 16, 2020.

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