

# ASSEMBLY AGING AND SENIOR SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 358**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 15, 2022

The Assembly Aging and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 358.

This bill, as amended, establishes certain requirements concerning operational procedures and visitation at long-term care facilities, which requirements would remain in effect for the duration of the state of emergency and public health emergency declared in response to an outbreak, epidemic, or pandemic involving an infectious disease.

Specifically, the bill requires that all staff employed by or providing services at a long-term care facility be tested for active infection with the infectious disease at least once per week and immediately upon showing any signs or symptoms of having contracted the infectious disease. For facilities with more than 100 authorized beds, the test is to be made available on-site. For facilities with 100 or fewer authorized beds, the test may be made available through the county board of health. County boards of health and facilities with more than 100 authorized beds will have seven days from the date a state of emergency or public health emergency, if any, is declared in response to the outbreak, epidemic, or pandemic, or as soon as rapid-result tests become available, to acquire rapid-result testing materials.

With regard to county boards of health, in situations where the current or anticipated demand for rapid-result testing resources through the county board of health exceeds the current supply of test resources, the county board of health will be required to give priority to testing staff and residents at facilities with 100 or fewer authorized beds who currently exhibit signs or symptoms of the infectious disease or have been recently exposed to the infectious disease, followed by routine, weekly and medically-indicated testing of staff members of facilities with 100 or fewer authorized beds, followed by first-time visitors to the facility and members of the public, who would be tested on a first-come, first served basis.

County boards of health may charge a reasonable fee for the administration of a rapid-result test, which fee may not exceed the reasonable cost to the county board of health of administering and processing the test. In the case of tests provided to staff and residents

of long-term care facilities with 100 or fewer authorized beds, the county board of health may only seek reimbursement from the facility, and will be prohibited from charging any testing fee to the staff member or resident. The facility would be permitted to seek reimbursement from the staff member's or resident's health benefits plan for the costs of the test, provided that, in the case of weekly screening tests and tests for individuals showing signs or symptoms of the infectious disease or who were exposed to the infectious disease, the facility will be prohibited from charging staff or residents for any portion of the cost of a test that is not covered under a health benefits plan.

The bill requires long-term care facilities to establish designated spaces for the isolation of residents who have tested positive for the infectious disease or who were exposed to the infectious disease, and further requires facilities to take appropriate steps to ensure, to the extent possible, that no more than one resident is housed in each residential room in the facility.

The bill allows long-term care facility residents to designate up to two individuals who will be authorized to engage in indoor visitation with the resident. The designation will remain in effect until the outbreak, epidemic, or pandemic is no longer affecting or likely to affect the long-term care facility, a resident may not change the designated visitors during this period except in the case of the death of a designated visitor.

Designated visitors will be allowed to visit the resident inside the long-term care facility once per day, at any time, day or night, for any duration of time, provided the individual schedules a visitation appointment with the facility at least 24 hours in advance.

Long-term care facilities are to limit in-person visitation to one visitor per resident at a time. Visitation is to take place in the resident's room, if the resident does not have a roommate, or in a designated visitation area, if the resident has one or more roommates. Designated visitation areas are to be thoroughly cleaned and sanitized after each use. Facilities will be required to implement protocols and procedures to ensure that visitors to the facility have as little contact as possible with staff and residents of the facility, are kept away from common areas within the facility to the extent possible, and do not touch any surfaces in the facility except as may be otherwise unavoidable.

All visitors will be screened for the signs and symptoms of the infectious disease prior to being allowed entry to the facility. In addition, the first time a designated visitor visits the facility, the visitor will be required to undergo a rapid-result test for the infectious disease, which may be provided by the facility or by the county board of health, depending on whether rapid-result tests for the disease are made available through the facility. The entity administering the test may charge the visitor a reasonable reimbursement fee for the test,

which fee may not exceed the actual cost of administering and processing the test. For a second or subsequent visit to the facility, designated visitors will be required to submit a written attestation to the facility that, during the period between the individual's last visit to the facility and the current visit, the individual adhered to guidance from the federal Centers for Disease Control and Prevention, the Department of Health, and the county or local board of health as may apply with regard to infection prevention and control, including, as applicable, maintaining social distancing, wearing a face mask or facial covering while in public, avoiding large group gatherings, and avoiding contact with others while present in indoor settings.

Designated visitors will be allowed bring in food and beverage items for exclusive consumption by the visitor and the resident, which food and beverage items will be screened by the facility and may be excluded by the facility if the food or beverage item presents a risk of transmitting the infectious disease or otherwise violates facility policies concerning outside food and beverages.

No visitation in a long-term care facility will be allowed unless the Department of Health has completed an in-person inspection of the facility during the current outbreak, epidemic, or pandemic, made a written determination that the facility is in compliance with the requirements of the bill and all applicable infection prevention and control requirements as are currently applicable to the facility, and expressly approves indoor visitation to take place at the facility.

Additionally, residents of a long-term care facility may designate a family member or other individual who may approve the resident's personal physician or a care provider whose services are paid for directly by the resident or the resident's family, to enter the facility for up to four hours per week to provide direct care services to the resident, which care may be provided during multiple visits over the course of the week. The physician or care provider may request approval from the facility to provide more than four hours of direct care services per week, which request is to be granted based on demonstrated medical need.

Designated visitors and personal physicians and care providers accessing a facility will be required to comply with current guidance issued by the federal Centers for Disease Control and Prevention or any other guidance required by the Department of Health concerning infection prevention and control in long-term care facilities, including any requirements concerning the use of personal protective equipment. Consistent with applicable guidance and current practices adopted in response to the outbreak, epidemic, or pandemic, the facility may require the individual to acquire the personal protective equipment at the individual's own expense, prohibit the reuse of personal protective equipment, maintain a supply of the personal protective equipment at the facility, and establish and

enforce requirements concerning proper doffing and disposal of the personal protective equipment.

Residents who travel outside a long-term care facility for medical or non-medical reasons are to be roomed in a separate area of the facility and subject to appropriate procedures and protocols to ensure that those residents are isolated from, and do not have contact with, residents who do not travel outside the facility. Facilities are to further establish separate rooming areas and appropriate procedures and protocols to ensure that residents who travel outside the facility only for medical reasons are isolated from, and do not have contact with, residents who travel outside the facility for non-medical reasons. All residents who travel outside the facility for any reason are to be tested for the infectious disease at least once per week, regardless of whether the resident exhibits any signs or symptoms of having contracted the infectious disease; the resident and the facility will share the costs of any portion of this weekly test that is not covered by the resident's health benefits plan.

The bill additionally provides that any person employed by or providing services at a long-term care facility, other than a physician, may only be employed by or provide services at that one facility, and will be prohibited from employment with or providing professional services to any other entity. This restriction will not apply to physicians and care providers authorized to provide care to residents by an individual designated by the resident as otherwise provided under the bill.

Any person employed by or providing services at a long-term care facility who exhibits signs or symptoms of the infectious disease is to be immediately removed from patient contact, tested for the infectious disease or referred for testing, and may not return to the facility until the person provides the facility with the results of two tests, administered three days apart, establishing the person is negative for active infection with the infectious disease. Any person employed by or providing services at a long-term care facility who tests positive for active infection with the infectious disease will be required to self-isolate or quarantine at home until the person's symptoms resolve and the person provides the facility with the results of two negative tests for active infection for the infectious disease, which tests are to be administered three days apart. Nothing in the bill will prohibit a person who tests positive for an infectious disease from seeking treatment in a general acute care hospital or from another licensed health care provider.

A long-term care facility employing or utilizing the services of a person who is prohibited from attending work under the bill will be required to pay the person the full wages the person would otherwise have earned working at the facility during the period of mandatory exclusion. If the person does not work a regular number of hours at

the facility, the wages due will equal the wages due for the average number of hours per week the person typically works at the facility.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments make technical changes to ensure conformity with terminology throughout the bill.

The committee amendments revise the synopsis of the bill to remove the bill's designation as "Sally's Law."