CHAPTER 190
(CORRECTED COPY)

AN ACT concerning long-term care facilities and amending P.L.2019, c.243.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. 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 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, licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

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

b. Notwithstanding any provision of law to the contrary, as a condition of licensure, 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 prevention and 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 residents 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 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 employing the following individuals:

(a) an individual who meets the requirements of subparagraph (b) of paragraph (1) of subsection e. of this section; and

(b) a physician who meets the requirements of subparagraph (a) of paragraph (1) of subsection e. of this section.

(2) Each nursing home that has not previously submitted an outbreak response plan to the department shall submit an outbreak response plan to the department for verification as provided in paragraph (3) of this subsection.

(3) The department shall verify that the outbreak response plans submitted by nursing homes are in compliance with the requirements of subsection b. of this section and with the requirements of paragraph (1) of this subsection.

(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.

(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.

d. (1) Each long-term care facility shall review and, if necessary, update its outbreak response plan on an annual basis.

(2) If a nursing home makes any material changes to its outbreak response plan, the 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 each long-term care facility to establish an infection prevention and control committee and assign to the facility's infection prevention and control committee:

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

(b) an individual designated as the infection preventionist who;

(i) has primary professional training in medicine, nursing, medical technology, microbiology, epidemiology, or a related field;

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

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

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

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

f. (1) An infection preventionist assigned to a long-term care facility's infection prevention and control committee pursuant to subsection e. of this section shall be a managerial employee 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 basis.

(2) The infection preventionist shall report directly to the administrator of the long-term care facility and shall provide the administrator quarterly reports detailing the effectiveness of the long-term care facility's infection prevention policies.

(3) The infection preventionist shall be responsible for:

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

monitoring the implementation of infection prevention and control policies and recommending disciplinary measures for staff who routinely violate those policies; and

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

(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 February 1, 2022. A long-term care facility shall provide notice to the Department of Health, within 60 days after the effective date of P.L.2021, c.190 (C.26:2H-87.3 et al.), 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 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 folllowing the facility's good faith efforts to hire an infection preventionist.

g. Each long-term care facility shall publish the facility's outbreak response plan on its Internet website if the facility maintains an Internet website, 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 plan. Each long-term care facility shall make its outbreak response plan available upon request if the facility does not maintain an Internet website.

h. Each long-term care facility shall annually perform preparedness drills to evaluate the effectiveness of its outbreak response plan.

C.26:2H-87.3 Definitions; conditions for licensure.

2. a. 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.

"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.).

"Department" means the Department of Health.

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

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

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

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

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

b. Notwithstanding any provision of law to the contrary, as a condition of licensure, the department shall require 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 prevention and 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 residents 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 a facility 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 employing an individual who meets the requirements of paragraph (1) of subsection e. of this section.

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

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

(4) The department shall have the authority to require any 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.

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

(2) If a facility 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 each facility to establish an infection prevention and control committee and assign to the facility's infection prevention and control committee an individual designated as the infection preventionist who is a licensed health care provider and who possesses five years of experience in infection control, or an individual who has successfully completed an online infection prevention course through the federal Centers for Disease Control and Prevention or the American Health Care Association course with a valid certificate therefrom.

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

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

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

(b) in the case of a facility located in the same building or on the same property as a nursing home or a facility that is located within a continuing care retirement community, the facility shall be permitted to hire one full-time infection control preventionist who will be responsible for the facilityand the nursing home or for the facility and the continuing care retirement community.

(2) The infection preventionist shall report directly to the administrator of the facility and shall provide the administrator quarterly reports detailing the effectiveness of the facility’s infection prevention policies.

(3) The infection preventionist shall be responsible for:

(a) contributing to the development of policies, procedures, and a training curriculum for facility staff based on best practices and clinical expertise; (b) monitoring the implementation of infection prevention and control policies and recommending disciplinary measures for staff who routinely violate those policies;

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

(d) directly training all employees in infection prevention at such intervals as determined by the department.

(4) A 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 February 1, 2022. A facility shall provide notice to the Department of Health, within 60 days after the effective date of P.L.2021, c.190 (C.26:2H-87.3 et al.), 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 facility shall hire an infection preventionist on a full-time or part-time basis after February 1, 2022, except that the Department of Health may waive this requirement if a facility is unable to hire an infection preventionist following the facility’s good faith efforts to hire an infection preventionist.

g. Each facility shall publish the facility’s outbreak response plan on its Internet website if the facility maintains an Internet website, 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 plan. Each facility shall make its outbreak response plan available upon request if the facility does not maintain an Internet website.

h. Each facility shall annually perform preparedness drills to evaluate the effectiveness of its outbreak response plan.

i. Each facility shall designate employees who receive special training in infection control and who shall be representative of the facility's staff, including certified nurse aides, licensed practical nurses, and registered nurses. Such employees shall assist training staff, distribute infection control information, assist with infection control implementation and policy development, and participate in quarterly infection control training exercises to maintain competency in using personal protection equipment.

3. This act shall take effect immediately.

Approved August 5, 2021.