SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 3156 and 3157

STATE OF NEW JERSEY

219th LEGISLATURE

ADOPTED MAY 6, 2021

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)
Senator NELLIE POU
District 35 (Bergen and Passaic)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Establishes “COVID-19 PCR Testing Transparency Act”; requires COVID-19 PCR test results to be provided within specific timeframes and regulates cost of COVID-19 PCR tests.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Health, Human Services and Senior Citizens Committee.

AN ACT concerning coronavirus disease 2019 PCR testing.

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

1. This act shall be known and may be cited as the "COVID-19 PCR Testing Transparency Act."

2. a. (1) Any entity that collects a specimen from an individual and uses that specimen to perform an on-site COVID-19 PCR test shall provide the tested individual with the results of the test within 96 hours after the specimen is collected.

(2) An entity that collects a specimen from an individual for the purpose of conducting a COVID-19 PCR test, but is not authorized to perform a COVID-19 PCR test or chooses to send the specimen to a clinical laboratory for testing, shall pack and ship the specimen, in accordance with applicable rules, regulations, or guidelines established by the federal Centers for Disease Control and Prevention, to a clinical laboratory.

(3) A clinical laboratory that receives a specimen pursuant to paragraph (2) of this subsection shall, within 96 hours of receipt of the specimen, perform a COVID-19 PCR test on the specimen and provide the results of the test to each individual and entity that is authorized to receive the test results pursuant to the order for the COVID-19 PCR test or, if no recipient is specified in the testing order, pursuant to the laboratory's standard protocols for reporting test results.

(4) An entity, other than the tested individual, that receives an individual's COVID-19 PCR test result pursuant to paragraph (3) of this subsection shall communicate the results of the test to the tested individual within 24 hours of receiving the test results. The provisions of this paragraph shall not apply to a governmental entity receiving a COVID-19 PCR test result.

b. Prior to collecting a specimen from an individual for the purpose of conducting a COVID-19 PCR test, the entity collecting the specimen shall inform the individual of the anticipated timeframe in which the individual should expect to receive results from a COVID-19 PCR test, as follows:

(1) If the entity collecting the specimen will be performing the COVID-19 PCR test, the current average turnaround times for COVID-19 PCR test results for that entity. The entity shall additionally advise the individual of the requirements under subsection a. of this section for COVID-19 PCR tests to be completed within 96 hours.

(2) If the entity collecting the specimen will be sending the specimen to a clinical laboratory to perform the COVID-19 PCR test, the current turnaround times for COVID-19 PCR test results for that clinical laboratory, to the extent they are known to the

entity collecting the specimen. The entity collecting the specimen shall additionally advise the individual of the requirements under subsection a. of this section for COVID-19 PCR tests to be completed within 96 hours of receipt by the clinical laboratory and the requirement that, if the test results are not communicated directly to the individual by the clinical laboratory performing the test, that the test results are to be transmitted to the individual within 24 hours of receipt.

c. No entity billing for the performance of a COVID-19 PCR test may charge a higher price for providing expedited COVID-19 PCR test results than the entity charges for non-expedited COVID-19 PCR test results.

d. (1) Clinical laboratories that perform COVID-19 PCR tests shall report to the Department of Health, on a monthly basis, the number of COVID-19 PCR tests performed by the laboratory and the average period of time between specimen collection and the provision of test results to the individual.

(2) Information that is reported by a clinical laboratory pursuant to paragraph (1) of this subsection shall be published on the Internet websites of both the Department of Health and the laboratory.

e. Any entity, including a clinical laboratory, that violates the requirements of this section may be subject to civil penalties or other administrative action as may be provided under Department of Health regulations.

3. Notwithstanding any law or regulation to the contrary, every long-term care facility in the State shall comply with the provisions of Executive Directive No.20-026 and any other executive directive issued by the Department of Health relating to the performance of COVID-19 PCR tests, except that, upon the rescission of Executive Directive No.20-026 or any other executive directive issued by the department relating to the performance of COVID-19 PCR tests, long-term care facilities shall be subject to the provisions of section 2 of this act.

4. As used in this act:

“Clinical laboratory” means a laboratory authorized to perform a COVID-19 test under applicable federal and State laws including, but not limited to, the federal Clinical Laboratory Improvement Amendments (“CLIA”) in section 353 of the Public Health Service Act (42 U.S.C. s.263a), the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), and associated regulations.

“COVID-19” means coronavirus disease 2019, which is caused by infection with the SARS-CoV-2 virus.

“COVID-19 PCR test” means a polymerase chain reaction test used to detect active infection with the SARS-CoV-2 virus.

"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.).

5. This act shall take effect immediately and shall expire upon the end of both the public health emergency and the state of emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic.