THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 647 Session of 2021

INTRODUCED BY COLLETT, L. WILLIAMS, FONTANA, SANTARSIERO,
BREWSTER, COSTA, STREET, KANE, MUTH AND CAPPELLETTI,
JUNE 3, 2021

REFERRED TO VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS,
JUNE 3, 2021

AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled
"An act providing for and reorganizing the conduct of the
executive and administrative work of the Commonwealth by the
Executive Department thereof and the administrative
departments, boards, commissions, and officers thereof,
including the boards of trustees of State Normal Schools, or
Teachers Colleges; abolishing, creating, reorganizing or
authorizing the reorganization of certain administrative
departments, boards, and commissions; defining the powers and
duties of the Governor and other executive and administrative
officers, and of the several administrative departments,
boards, commissions, and officers; fixing the salaries of the
Governor, Lieutenant Governor, and certain other executive
and administrative officers; providing for the appointment of
certain administrative officers, and of all deputies and
other assistants and employes in certain departments, boards,
and commissions; providing for judicial administration; and
prescribing the manner in which the number and compensation
of the deputies and all other assistants and employes of
certain departments, boards and commissions shall be
determined," providing for COVID-19 frontline essential
worker protections.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. The act of April 9, 1929 (P.L.177, No.175), known
as The Administrative Code of 1929, is amended by adding an
article to read:
ARTICLE I-A

COVID-19 FRONTLINE ESSENTIAL WORKER PROTECTIONS

(a) Preliminary Provisions

Section 101-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"COVID-19." The novel coronavirus pandemic as identified in the COVID-19 proclamation of disaster emergency.

"COVID-19 proclamation of disaster emergency." The proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the proclamation of disaster emergency.

"Frontline essential workers." Individuals employed by or under contract with a life-sustaining business or entity who work during the COVID-19 proclamation of disaster emergency. The term includes:

(1) First responders, including law enforcement officers, firefighters, emergency medical technicians and other individuals who are considered to be first responders.

(2) Corrections officers.

(3) Emergency services dispatchers.

(4) Ambulance drivers.

(5) Retail workers, including restaurant, food services and grocery store workers, cashiers and other support staff.

(6) Food and agriculture workers.

(7) Medical, health care and public health workers, including doctors, nursing professionals, physician assistants and paramedics and other support staff.

(8) Pharmacists and any cashiers and other pharmacy
support staff.

(9) Home health care workers.

(10) Public utility workers, including workers engaged in providing telecommunications, energy, water and wastewater services and public works.

(11) Employees of State government or a local government.

(12) Trash collectors.

(13) Warehouse workers.

(14) Security guards.

(15) Public transit workers.

(16) Commercial building cleaners.

(17) Other individuals employed by a life-sustaining business or occupation who are required to work during the COVID-19 proclamation of a disaster emergency.

"Life-sustaining business or occupation." A list of businesses or occupations, as designated by the Governor, which perform or conduct a range of vital operations, functions and services that are essential to assisting the Commonwealth and its political subdivisions in protecting people and communities while ensuring continuity of functions critical and essential to public health and safety, as well as economic and homeland security, and which should continue normal operations, appropriately modified to account for the Centers for Disease Control and Prevention and the Department of Health workforce and customer protection guidance, during the COVID-19 proclamation of disaster emergency.

(b) Health and Safety Supports for Frontline Essential Workers

Section 111-A. Definitions.
The following words and phrases when used in this subarticle shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Human Services of the Commonwealth.

"Program." The COVID-19 County Health and Safety Supports Grant Program.

Section 112-A. Establishment and administration of program.
The COVID-19 County Health and Safety Supports Grant Program is established and shall be administered by the department.

Section 113-A. Purposes of program.
Grants provided under the program shall be used by a county for the following purposes:

(1) To procure personal protective equipment, including face masks, for frontline essential workers residing in the county during the COVID-19 proclamation of disaster emergency.

(2) To provide mental health services, including posttraumatic stress treatment, and drug and alcohol services to frontline essential workers residing in the county during the COVID-19 proclamation of disaster emergency.

Section 114-A. Award of grants.

(a) Authorization.--From the money appropriated under section 115-A, the department shall make a grant award from the program to each county in an amount equal to the population proportion amount as determined in subsection (e).

(b) Distribution.--The department shall distribute funding to counties not later than 45 days following the effective date of this subarticle.

(c) Minimum distribution.--No county shall receive a
distribution under this section that is less than $250,000.

(d) Proration.--The distribution to a county shall be adjusted on a pro rata basis to the extent necessary to meet the minimum distribution requirements under subsection (c) and not exceed the total amount appropriated for grants under this subarticle.

(e) Population proportion amount.--For the purposes of subsection (a), the population proportion shall be determined as follows:

1. the population estimate of the county; divided by
2. the sum of the population estimates of all counties minus the sum of the population estimates of all counties that received a disbursement directly from the Federal Government through the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136, 134 Stat. 281).

(f) Population proportion amount.--For the purposes of this section, a county's population estimate shall be equal to the published estimate by the United States Census Bureau Population Estimates Program for calendar year 2019.

Section 115-A. Emergency appropriation.

Notwithstanding any other provision of law, the sum of $100,000,000, or as much thereof as may be necessary, is appropriated from the General Fund to the department for the fiscal year July 1, 2021, to June 30, 2022, for the purpose of funding the program.

(c) Testing for Frontline Essential Workers

Section 121-A. Prioritization in COVID-19 testing.

Testing for the presence of COVID-19 that is provided by the Department of Health or a county shall prioritize testing of frontline essential workers during the COVID-19 proclamation of 20210SB0647PN0837
disaster emergency to the extent there are a limited number of
tests available at an individual testing site.

(d) Health Care Facility Prevention and
Containment Controls

Section 131-A. COVID-19 prevention and containment controls in
health care facilities.

(a) Standards.--Each health care facility shall comply, at a
minimum, with the following prevention and containment controls
for the protection of employees, visitors and the individuals
for which the health care facilities provide care during the
COVID-19 proclamation of disaster emergency:

(1) Implement measures to minimize the risk of exposure
in the health care facility, including, but not limited to,
the following:

(i) Requiring each individual who is two years of
age or older and who enters the health care facility to
wear a face mask, if the individual's health tolerates
it, while in the building, regardless of symptoms.

(ii) Requiring each visitor or patient who is two
years of age or older to wear a face mask upon arrival to
and during the stay at the facility, if the visitor's or
patient's health tolerates it, except if the visitor or
patient is in an individual room and no one else enters
the room.

(iii) Screening, evaluating and immediate isolation
of an individual who reports symptoms at the health care
facility.

(iv) Requiring health care personnel and all other
employees at the facility to wear face masks at all times
while they are in the health care facility.
(v) Providing health care personnel with job-specific training on personal protective equipment to demonstrate competency with selection and proper use.

(vi) When handling patient appointments for routine medical care, instructing patients to call ahead and discussing the need to reschedule if they develop COVID-19 symptoms.

(vii) When handling patients requesting evaluation for COVID-19, using nurse-directed triage protocols to determine if an appointment is necessary or if the patient can be managed from home.

(viii) Limiting and monitoring points of entry to the health care facility.

(ix) Advising patients and visitors entering the health care facility to await screening for COVID-19 symptoms before entering the building.

(x) Implementing policies to ensure that everyone adheres to respiratory hygiene, cough etiquette and hand hygiene and that all patients follow triage procedures throughout the duration of the visit.

(xi) Ensuring rapid and safe triage and isolation of patients with COVID-19 symptoms or other respiratory infections.

(xii) Incorporating questions about new onset of COVID-19 symptoms into daily assessments of all admitted patients.

(xiii) Implementing alternatives to face-to-face triage, visits and group health activities if possible, including the use of visits by electronic means.

(xiv) Designating an area at the health care
facility or an ancillary structure where patients with
COVID-19 symptoms can seek evaluation and care.

(xv) Postponing elective procedures, surgeries and
nonurgent outpatient visits.

(2) Adhere to standard and transmission-based
precautions, including, but not limited to, the following:

(i) Training of health care personnel regarding
proper donning, doffing and disposal of personal
protective equipment.

(ii) Training health care personnel regarding the
standard precautions in the Centers for Disease Control
and Prevention's Guideline for Isolation Precautions:
Preventing Transmission of Infectious Agents in
Healthcare Settings.

(iii) Requiring health care personnel who enter the
room of a patient with known or suspected COVID-19 to
adhere to standard precautions and use a respirator or
face mask, gown, gloves and eye protection.

(3) Adhere to proper patient placement, including, but
not limited to, the following:

(i) Evaluating the need for hospitalization or home
care of patients with COVID-19 or other respiratory
infections.

(ii) Placing admitted patients with known or
suspected COVID-19 in a single-person room with the door
closed and providing a dedicated bathroom.

(iii) Designating units, where possible, within the
health care facility to care for patients with known or
suspected COVID-19, with dedicated health care personnel
assigned to care only for those patients during their
entire shift.

(iv) Minimizing transport of patients with known or suspected COVID-19 outside of the room for medically essential purposes.

(v) When possible, housing and treating patients with known or suspected COVID-19 in the same room during the duration of their stay at the health care facility.

(vi) Implementing policies to keep health care and other personnel out of the room of a patient with known or suspected COVID-19 who is recently transferred or discharged until sufficient time has elapsed for enough air changes to remove potentially infectious particles and the room to be subsequently cleaned and disinfected before it is returned to use.

(4) Take precautions when performing aerosol generating procedures, including, but not limited to, the following:

(i) Requiring health care personnel to wear face masks or respirators, gowns, gloves and eye protection when performing aerosol generating procedures.

(ii) Cleaning and disinfecting the procedure room surfaces promptly.

(5) Take precautions when collecting diagnostic respiratory specimens from a patient with suspected COVID-19, including, but not limited to, the following:

(i) Collecting the specimen in a normal examination room with the door closed.

(ii) Requiring health care personnel to wear a face mask, gown, gloves and eye protection.

(iii) Limiting the number of health care personnel in the room to only those essential for patient care and
(iv) Cleaning and disinfecting procedure room surfaces promptly.

(6) Manage visitor access and movement within the health care facility, including, but not limited to, the following:

(i) Limiting visitors to only those essential for the patient's physical or emotional well-being and care.

(ii) Encouraging use of alternative mechanisms for patient and visitor interactions, including video calls.

(iii) Limiting points of entry to the health care facility for visitation hours to allow screening of all potential visitors.

(iv) Denying entry to visitors with fevers or COVID-19 symptoms.

(v) Providing instruction to visitors, if visiting a patient with COVID-19, on safety precautions and evaluating the risk to the health of the visitors.

(7) Design and install engineering controls to reduce or eliminate exposures by shielding health care personnel and other patients from infected individuals, including physical barriers or partitions to guide patients through triage areas and ensure proper installation and maintenance of air-handling systems.

(8) Monitor and manage health care personnel by implementing the following strategies:

(i) Flexible sick leave policies that are nonpunitive and consistent with public health guidance.

(ii) Requesting health care personnel to regularly monitor themselves for COVID-19 symptoms.

(iii) Screening all health care personnel at the
start of their shift for COVID-19 symptoms and prioritizing those with symptoms for testing.

(iv) Complying with the Centers for Disease Control and Prevention's Interim Guidance on Criteria for Return to Work for Healthcare Personnel with Confirmed or Suspected COVID-19 regarding when those health care personnel should return to work.

(v) Developing plans to mitigate potential staffing shortages during the COVID-19 proclamation of disaster emergency.

(9) Train and educate health care personnel by providing them with job-specific training and refresher training on prevention of transmission of infectious agents and ensuring that they have practiced the appropriate use of personal protective equipment.

(10) Implement environmental infection control measures, including, but not limited to, the following:

(i) Dedicating medical equipment for use in caring for patients with known or suspected COVID-19.

(ii) Implementing routine environmental cleaning and disinfection procedures and ensuring that the procedures are followed consistently and correctly.

(iii) Managing laundry, food service utensils and medical waste in accordance with routine environmental cleaning and disinfection procedures.

(11) Establish reporting policies and mechanisms within and between the health care facility, the county health authority and the Department of Health.

(12) Comply with any other required controls included in the Centers for Disease Control and Prevention's Interim
Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings as applicable.

(b) Violations.--A health care facility that fails to comply with the prevention and containment controls under subsection (a) are subject to discipline and enforcement by the Department of Health, including licensure suspension and revocation in accordance with the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(c) Protection from retaliation.--

(1) It shall be unlawful for a health care facility to discharge, threaten or otherwise retaliate or discriminate against an individual employed by the health care facility regarding compensation or other terms or conditions of employment because the individual:

   (i) makes a complaint regarding the health care facility's failure to comply with the prevention and containment controls under subsection (a) to the health care facility or the Department of Health; or
   
   (ii) participates in an investigation regarding the health care facility's failure to comply with the prevention and containment controls under subsection (a).

(2) An individual who suffers retaliation or discrimination in violation of this section may bring an action in a court of common pleas in accordance with established civil procedures of this Commonwealth. The action must be brought within three years from the date the employee knew of the retaliation or discrimination.

(3) If an individual prevails in an action commenced under this section, the employee shall be entitled to the
following relief:

(i) Reinstatement of the employee, if applicable.

(ii) Restitution equal to three times the amount of the employee’s wages and fringe benefits calculated from the date of the retaliation or discrimination.

(iii) Reasonable attorney fees and the cost of the action.

(iv) Any other legal and equitable relief as the court deems appropriate.

(d) Definitions.--For purposes of this section, "health care facility" shall have the same meaning as the term is defined in section 103 of the Health Care Facilities Act.

(e) COVID-19 Workplace Safety Protocols

Section 141-A. Limiting in-person contact.

A life-sustaining business operating in this Commonwealth during the COVID-19 proclamation of disaster emergency shall limit or suspend the provision of in-person services and mitigate the spread of COVID-19 among employees by implementing the following:

(1) Permitting the use of alternative mechanisms for employees to provide customer services, when possible, including the use of available technologies for contactless customer interaction, including, but not limited to, contactless pickup and delivery services.

(2) Allowing employees to perform work remotely, wherever possible.

Section 142-A. Workplace cleaning protocols.

A life-sustaining business operating in this Commonwealth during the COVID-19 proclamation of disaster emergency shall comply, at a minimum, with the COVID-19 Guidance for Life-
Sustaining Businesses issued by the Department of Health and the Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 issued by the Centers for Disease Control and Prevention, including, but not limited to, the following measures:

(1) Performing routine environmental cleaning and disinfection of all frequently touched surfaces in the workplace.

(2) Performing a deep clean on the entirety of work spaces at least once per week.

(3) When choosing cleaning chemicals, consulting information on United States Environmental Protection Agency-approved disinfectant labels with claims against emerging viral pathogens and following the manufacturer's instructions for use of all cleaning and disinfecting products, with attention given to concentration, application method, contact time and safety precautions when using.

(4) Providing sanitizing wipes or cleaners to allow frequently used surfaces to be wiped down by employees after use.

(5) Discouraging employees from using other employees' work spaces, work tools and work equipment, when possible.

(6) Performing enhanced cleaning and disinfection after persons suspected or confirmed to have COVID-19 have been in the workplace.

Section 143-A. Protection from retaliation.

(a) Prohibition.--It shall be unlawful for a life-sustaining business to discharge, threaten or otherwise retaliate or discriminate against an individual employed by the life-sustaining business regarding compensation or other terms or
conditions of employment because the individual:

(1) makes a complaint regarding the life-sustaining business's failure to comply with the provisions of this subarticle to the life-sustaining business or the Department of Health; or

(2) participates in an investigation regarding the life-sustaining business's failure to comply with the provisions of this subarticle.

(b) Actions.--An individual who suffers retaliation or discrimination in violation of this section may bring an action in a court of common pleas in accordance with established civil procedures of this Commonwealth. The action must be brought within three years from the date the employee knew of the retaliation or discrimination.

(c) Relief.--If an individual prevails in an action commenced under this section, the employee shall be entitled to the following relief:

(1) Reinstatement of the employee, if applicable.

(2) Restitution equal to three times the amount of the employee's wages and fringe benefits calculated from the date of the retaliation or discrimination.

(3) Reasonable attorney fees and the cost of the action.

(4) Any other legal and equitable relief as the court deems appropriate.

Section 144-A. Penalties.

An employer operating in this Commonwealth that fails to comply with the requirements of section 141-A or 142-A shall be:

(1) Subject to a civil penalty of $1,000 for each finding of noncompliance.

(2) Immediately closed and may not be permitted to
reopen until the employer is in compliance with the requirements of section 141-A or 142-A, as the case may be.

Section 2. This act shall take effect immediately.