
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2867 Session of
2020

INTRODUCED BY DAY, CIRESI, HILL-EVANS, HOHENSTEIN, MILLARD,
MIZGORSKI, READSHAW, ROZZI, THOMAS AND SCHLEGEL CULVER,
SEPTEMBER 15, 2020

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
SEPTEMBER 15, 2020

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for long-term infectious
3 disease control.

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

6 Section 1. Title 35 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 59

9 LONG-TERM INFECTIOUS DISEASE CONTROL

10 Sec.

11 5901. Definitions.

12 5902. Response to emergency.

13 5903. Inspection and review.

14 5904. Facilities.

15 § 5901. Definitions.

16 The following words and phrases when used in this chapter

17 shall have the meanings given to them in this section unless

1 context clearly indicates otherwise:

2 "Commission." The Infectious Disease Advisory Commission
3 established under section 5902(h) (relating to response to
4 emergency).

5 "Department." The Department of Health of the Commonwealth.

6 "Disaster emergency." A declaration by the Governor of
7 disaster emergency under section 7301(c) (relating to general
8 authority of Governor) relating to public health.

9 "Facility." Any of the following:

10 (1) A domiciliary care as defined in section 2202-A of
11 the act of April 9, 1929 (P.L.177, No.175), known as The
12 Administrative Code of 1929.

13 (2) A personal care home as defined in section 1001 of
14 the act of June 13, 1967 (P.L.31, No.21), known as the Human
15 Services Code.

16 (3) An assisted living residence as defined in section
17 1001 of the Human Services Code.

18 (4) Any of the following entities as defined in section
19 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as
20 the Health Care Facilities Act:

21 (i) Home care agency.

22 (ii) Home care registry.

23 (iii) Home health care agency.

24 (iv) Hospice.

25 (v) Long-term care nursing facility.

26 (5) An older adult daily living center as defined in
27 section 2 of the act of July 11, 1990 (P.L.499, No.118),
28 known as the Older Adult Daily Living Centers Licensing Act.

29 (6) A PACE provider as defined in section 1894 of the
30 Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

1 (7) Any other public or private organization, entity or
2 part of a private organization or entity, that uses public
3 funds and is paid, in part, to provide care to care-dependent
4 individuals.

5 "Infectious disease coordinator." An employee of the
6 facility designated to implement the infectious disease plan
7 required under section 5904 (relating to facilities).

8 "Organization." An organization that supplies or
9 manufactures personal protective equipment.

10 "Personal protective equipment" or "PPE." Gloves, hand
11 sanitizer, respirators, face masks, gowns, face shields and
12 other protective equipment designed to be worn or used by
13 individuals to prevent or contain contact with, or to prevent
14 transmission of, a communicable illness or the pathogens that
15 cause communicable illness.

16 "Plan" or "infectious disease plan." The infectious disease
17 plan required under section 5904(a).

18 "PPE stockpile" or "stockpile." The PPE stockpile
19 established under section 5902(b).

20 "Recipient." An individual who receives care, services or
21 treatment in or from a facility.

22 "Relative." An individual who is related within the fifth
23 degree of consanguinity or affinity to a recipient in a
24 facility.

25 § 5902. Response to emergency.

26 (a) Selection of organization.--The Governor, or the
27 Governor's designee, shall select an organization, by
28 competitive bid, for successive terms of five years each to
29 oversee the procurement, manufacturing and distribution of PPE
30 in this Commonwealth.

1 (b) Duties of selected organization.--The organization
2 selected under subsection (a) shall perform the following
3 duties:

4 (1) Purchase and keep up-to-date a stockpile of PPE to
5 be used by a facility in the event of a disaster emergency in
6 accordance with subsection (c).

7 (2) Select three manufacturers of PPE from which the
8 organization shall procure PPE.

9 (3) Contract with manufacturers of PPE to provide PPE to
10 facilities within this Commonwealth and supply the PPE
11 stockpile under paragraph (4). A manufacturer must be
12 domiciled and manufacture PPE in this Commonwealth in order
13 to be eligible for a contract under this paragraph.

14 (4) Determine four locations within this Commonwealth to
15 store PPE as follows:

16 (i) One-fourth of the stockpile shall be located in
17 the northwest area of this Commonwealth.

18 (ii) One-fourth of the stockpile shall be located in
19 the northeast area of this Commonwealth.

20 (iii) One-fourth of the stockpile shall be located
21 in the southwest area of this Commonwealth.

22 (iv) One-fourth of the stockpile shall be located in
23 the southeast area of this Commonwealth.

24 (c) Required amount of PPE.--The amount of PPE stored in the
25 stockpile shall be determined by the Governor, or the Governor's
26 designee, the first year. For each subsequent year, the PPE
27 stored in the stockpile shall equal the amount of PPE purchased
28 the previous year at a minimum, but may not be more than
29 quadruple the volume.

30 (d) Funding of stockpile.--The stockpile shall be funded by

1 a 50% fee on purchased PPE until the required amount of PPE
2 stored in the stockpile under subsection (c) is met. For
3 subsequent PPE stored in the stockpile, the fee shall be reduced
4 to 7% to fund the stockpile operations. Facilities shall
5 purchase all PPE from the organization. The amount that each
6 facility purchases is the amount that will be available to the
7 facility during a disaster emergency.

8 (e) Access to PPE.--A facility may access the stockpile to
9 obtain the PPE purchased by the facility for the stockpile
10 during a disaster emergency.

11 (f) Testing.--The following shall apply:

12 (1) The Governor shall require the testing of recipients
13 and employees of a facility during a disaster emergency. If a
14 test to identify a virus or communicable disease causing the
15 disaster emergency is available, the Governor, in
16 consultation with the Secretary of Health, shall order the
17 testing for recipients and employees at each facility to
18 gather baseline data within the facilities. At a minimum, the
19 testing shall be completed in:

20 (i) the most cost-effective manner available; and

21 (ii) laboratories capable of returning the results
22 electronically within 24 hours after receiving the
23 sample.

24 (2) The Governor shall provide funding to at least three
25 laboratories located within this Commonwealth permitted to
26 perform the testing required under paragraph (1).

27 (3) Upon collecting the baseline data under paragraph
28 (1), the department, in consultation with the Department of
29 Human Services, shall create a system to randomly test a
30 subset of recipients, employees and visitors at each

1 facility.

2 (4) If an at-home test kit for individual use to
3 identify a virus or communicable disease causing the disaster
4 emergency is available, the Governor, in consultation with
5 the department, the Department of Human Services and
6 Pennsylvania Emergency Management Agency, shall develop a
7 distribution method to prioritize distribution of the test to
8 visitors of a relative in a facility.

9 (g) Vaccine distribution.--If a vaccination to cure, prevent
10 or otherwise provide acquired immunity against a communicable
11 disease that is the cause of the disaster emergency is
12 developed, the Governor shall prioritize vaccine distribution to
13 employees, recipients and employees in facilities.

14 (h) Infectious Disease Advisory Commission.--The following
15 shall apply:

16 (1) The Governor shall establish the Infectious Disease
17 Advisory Commission.

18 (2) The commission shall be composed of the following
19 members:

20 (i) Six members knowledgeable and experienced in
21 issues relating to operations in facilities as follows:

22 (A) Three members of the Senate, appointed by
23 the President pro tempore of the Senate, in
24 consultation with the Majority Leader of the Senate
25 and the Minority Leader of the Senate.

26 (B) Three members of the House of
27 Representatives, appointed by the Speaker of the
28 House of Representatives, in consultation with the
29 Majority Leader of the House of Representatives and
30 the Minority Leader of the House of Representatives.

1 (ii) Three Members appointed by the Governor as
2 follows:

3 (A) One member shall be a member of the general
4 public.

5 (B) One member shall be a member of an
6 organization who is directly involved in managing a
7 facility.

8 (C) One member shall be a member of an advocacy
9 or services organization who is directly involved in
10 providing services to older adults.

11 (iii) The Secretary of Health, or a designee.

12 (iv) The Secretary of Human Services, or a designee.

13 (v) The Secretary of Aging, or a designee.

14 (3) The commission shall meet as necessary, but no fewer
15 than three times within the first 90 days of the disaster
16 emergency.

17 (4) The commission shall be responsible for examining
18 and analyzing the practices, processes and procedures
19 relating to the prevention of and response to infectious
20 diseases in facilities.

21 (5) The commission shall develop best practices on
22 disease prevention, education, training requirements and any
23 other operations that may be altered for facilities during a
24 disaster emergency.

25 (i) Civilian volunteer corps.--The Governor shall establish
26 a civilian volunteer corps to be utilized to assist facilities
27 during a disaster emergency. The Governor, in consultation with
28 the department and the Department of Human Services, shall
29 promulgate regulations to create training requirements as
30 necessary for volunteers participating in the civilian volunteer

1 corps.

2 § 5903. Inspection and review.

3 (a) Inspections and surveys.--The department, in
4 consultation with the Department of Human Services, shall:

5 (1) Review and align all facility inspections and
6 surveys conducted by each department with best practices for
7 reducing the spread of infectious diseases.

8 (2) Determine the priority order for inspecting or
9 surveying facilities during an infectious disease outbreak.

10 (3) Determine a list of protocols for inspection and
11 intervention.

12 (b) Regulation review.--The Governor shall submit a report
13 to the General Assembly reviewing all regulations for
14 facilities. The report shall include, but not be limited to, the
15 following:

16 (1) An outline of the regulations for facilities.

17 (2) A comparison of the regulations for facilities that
18 existed prior to a declaration of a disaster emergency and
19 any regulations that were suspended or altered during the
20 state of disaster emergency.

21 (3) An executive summary of the differences between the
22 regulations for facilities as determined under paragraph (2).

23 (c) Data reporting.--The department, in consultation with
24 the Department of Human Services, shall develop a single
25 reporting system for facilities to submit new cases and
26 information that the department determines necessary during a
27 disaster emergency.

28 (d) Living wills and end-of-life guidelines.--The
29 department, in consultation with the Department of Human
30 Services, shall determine how many individuals died due to

1 complications related to COVID-19 during the proclamation of
2 disaster emergency issued by the Governor on March 6, 2020,
3 published at 50 Pa.B. 1644 (March 21, 2020), or any renewal of
4 the state of disaster emergency, and had a living will with a
5 do-not-resuscitate or similar order. This report shall be
6 submitted to the General Assembly.

7 (e) Sample infectious disease plan.--The department, in
8 consultation with the Department of Human Services, shall
9 develop and make available on the department's publicly
10 accessible Internet website a sample infectious disease plan for
11 a facility to implement. The model infectious disease plan shall
12 fulfill the requirement under section 5904(a) (relating to
13 facilities). At a minimum, the infectious disease plan shall
14 include:

15 (1) The data reporting requirements under subsection
16 (c).

17 (2) A mechanism for complaints or feedback regarding the
18 infectious disease plan.

19 (3) A method to obtain a one-year supply of PPE from the
20 organization under section 5902(a) (relating to response to
21 emergency).

22 (4) A method to cohort recipients within the facility.

23 (5) A method to screen each employee before the
24 employee's shift begins.

25 (6) A schedule that assigns staff to certain areas of
26 the facility.

27 (7) A notification system to alert relatives of
28 recipients in the facility of the measures the facility is
29 taking to prevent and respond to the communicable disease or
30 virus.

1 § 5904. Facilities.

2 (a) Infectious disease plan.--Each facility shall develop an
3 infectious disease plan to implement upon the declaration of a
4 disaster emergency. At a minimum, the infectious disease plan
5 shall include the requirements listed under section 5903(e)
6 (relating to inspection and review). Nothing in this subsection
7 shall be construed to prevent a facility from taking additional
8 measures to prevent and respond to an infectious or communicable
9 disease during a disaster emergency.

10 (b) Infectious disease coordinator.--Each facility shall
11 designate an employee to serve as the infectious disease
12 coordinator within the facility during a disaster emergency to
13 ensure that the infectious disease plan requirements under
14 subsection (a) are met.

15 (c) Staffing requirements.--Notwithstanding any other law to
16 the contrary, facility staffing requirements during a disaster
17 emergency shall be as follows:

18 (1) The total number of hours of general nursing care
19 provided in each 24-hour period at a health care facility
20 shall, when totaled for the entire health care facility, be a
21 minimum of two and seven tenths hours of direct recipient
22 care for each recipient.

23 (2) The total number of hours of assisted living
24 services in each 24-hour period at an assisted living
25 residence shall, when totaled for the entire assisted living
26 facility, be a minimum of one hour per day of assisted living
27 services to each mobile recipient and be a minimum of two
28 hours per day of assisted living services to each recipient
29 who has mobility needs.

30 (3) The total number of hours of personal care services

1 in each 24-hour period at a personal care residence shall,
2 when totaled for the entire personal care home, be a minimum
3 of one hour per day of personal care services to each mobile
4 recipient and be a minimum of two hours per day of personal
5 care services to each recipient who has mobility needs.

6 (d) Inability to meet requirements.--The following shall
7 apply if a facility is not able to meet the staffing
8 requirements of subsection (c):

9 (1) The facility shall report the facility's inability
10 to meet the staffing requirements to the department.

11 (2) The Governor shall deploy the Pennsylvania National
12 Guard to aid the facility, implement components of the
13 infectious disease plan and train staff on appropriate
14 protocols.

15 (e) Limitation of liability.--A facility shall not be
16 subject to civil liability for a medical professional liability
17 claim arising out of an act or omission made in good faith
18 compliance with any order, directive or other guidance issued by
19 the Governor, the Secretary of Health or the Secretary of Human
20 Services in response to the proclamation of disaster emergency
21 issued by the Governor on March 6, 2020, published at 50 Pa.B.
22 1644 (March 21, 2020), or any renewal of the state of disaster
23 emergency.

24 (f) Nonliability.--This section shall not be construed as
25 establishing any liability.

26 (g) Nonapplication.--This section shall not apply to any
27 criminal act or to an injury or death to an individual that
28 results from an act or omission of the individual constituting
29 recklessness or intentional conduct.

30 (h) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection unless the context clearly indicates otherwise:

3 "Assisted living residence." As defined in section 1001 of
4 the act of June 13, 1967 (P.L.31, No.21), known as the Human
5 Services Code.

6 "Health care facility." Any of the following entities as
7 defined in section 802.1 of the act of July 19, 1979 (P.L.130,
8 No.48), known as the Health Care Facilities Act:

9 (1) Home care agency.

10 (2) Home care registry.

11 (3) Home health care agency.

12 (4) Hospice.

13 (5) Long-term care nursing facility.

14 "Personal care home." As defined in section 1001 of the
15 Human Services Code.

16 Section 2. This act shall take effect in 60 days.