

CHAPTER 113
(CORRECTED COPY)

AN ACT concerning the implementation, by long-term care facilities, of policies, protocols, and procedures to prevent the social isolation of facility residents and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-12.97 Definitions relative to the prevention of social isolation in certain facilities.

1. As used in this act:

“Cohorting” means the same as that term is defined by section 1 of P.L.2019, c.243 (C.26:2H-12.87). “Commissioner” means the Commissioner of Health.

“Department” means the Department of Health.

“Long-term care facility” or “facility” means a nursing home, assisted living facility, 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.).

“Religious and recreational activities” includes any religious, social, or recreational activity that is consistent with the resident’s preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

“Resident” means a senior citizen or other person who resides in a long-term care facility.

“Social isolation” means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, and external support systems.

C.26:2H-12.98 Social isolation prevention policies required.

2. a. The Department of Health shall require each long-term care facility in the State, as a condition of facility licensure, to adopt and implement written policies, provide for the practical availability of technology to facility residents, and ensure that appropriate staff and other capabilities are in place, to prevent the social isolation of facility residents.

b. The social isolation prevention policies adopted by each long-term care facility pursuant to this section shall:

(1) authorize, and include specific protocols and procedures to encourage and enable, residents of the facility to engage in in-person contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, except when such in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by federal and State statute, rule, or regulation;

(2) authorize, and include specific protocols and procedures to encourage and enable, residents to engage in face-to-face or verbal/auditory-based contact, communication, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, through the use of electronic or virtual means and methods, including, but not limited to, computer technology, the Internet, social media, videoconferencing, and other innovative technological means or methods, whenever such residents are subject to restrictions that limit their ability to engage in in-person contact, communications, or religious and recreational activities as authorized by paragraph (1) of this subsection;

(3) provide for residents of the facility who have disabilities that impede their ability to communicate, including, but not limited to, residents who are blind, deaf, or deaf-blind,

residents who have Alzheimer's disease or other related dementias, and residents who have developmental disabilities, to be given access to assistive and supportive technology as may be necessary to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other residents, family members, friends, and other external support systems, through electronic means, as provided by paragraph (2) of this subsection;

(4) include specific administrative policies, procedures, and protocols governing: (a) the acquisition, maintenance, and replacement of computers, videoconferencing equipment, distance-based communications technology, assistive and supportive technology and devices, and other technological equipment, accessories, and electronic licenses, as may be necessary to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and external support systems, through electronic means, in accordance with the provisions of paragraphs (2) and (3) of this subsection; (b) the use of environmental barriers and other controls when the equipment and devices acquired pursuant to this section are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and (c) the regular cleaning of the equipment and devices acquired pursuant to this paragraph and any environmental barriers or other physical controls used in association therewith;

(5) require appropriate staff to assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities, and include specific protocols and procedures to ensure that the quantity of devices and equipment maintained on-site at the facility remains sufficient, at all times, to meet the assessed social and activities needs and preferences of each facility resident;

(6) require appropriate staff, upon the request of a resident or the resident's family members or guardian, to develop an individualized visitation plan for the resident, which plan shall: (a) identify the assessed needs and preferences of the resident and any preferences specified by the resident's family members; (b) address the need for a visitation schedule, and establish a visitation schedule if deemed to be appropriate; (c) describe the location and modalities to be used in visitation; and (d) describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan;

(7) include specific policies, protocols, and procedures governing a resident's requisition, use, and return of devices and equipment maintained pursuant to this act, and require appropriate staff to communicate those policies, protocols, and procedures to residents; and

(8) designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a department, designate at least one senior staff member, as determined by facility management, to train other appropriate facility employees, including, but not limited to, activities professionals and volunteers, social workers, occupational therapists, and therapy assistants, to provide direct assistance to residents, upon request and on an as-needed basis, as necessary to ensure that each resident is able to successfully access and use, for the purposes specified in paragraphs (2) and (3) of this subsection, the technology, devices, and equipment acquired pursuant to this paragraph.

c. The department shall distribute civil monetary penalty (CMP) funds, as approved by the federal Centers for Medicare and Medicaid Services, and any other available federal and

State funds, upon request, to facilities for communicative technologies and accessories needed for the purposes of this act.

C.26:2H-12.99 Inspections; violations, penalties.

3. a. Whenever the department conducts an inspection of a long-term care facility, the department's inspector shall determine whether the long-term facility is in compliance with the provisions of this act and the policies, protocols, and procedures adopted pursuant thereto.

b. In addition to any other applicable penalties provided by law, a long-term care facility that fails to comply with the provisions of this act or properly implement the policies, protocols, and procedures adopted pursuant thereto:

(1) shall be liable to pay an administrative penalty, the amount of which shall be determined in accordance with a schedule established by department regulation, which schedule shall provide for an enhanced administrative penalty in the case of a repeat or ongoing violation; and

(2) may be subject to adverse licensure action, as deemed by the department to be appropriate.

c. Whenever a complaint received or an investigation conducted by the Office of the State Long-Term Care Ombudsman discloses evidence that a long-term care facility has failed to comply with the provisions of this act or to properly implement the policies, protocols, and procedures adopted pursuant thereto, the Office of the State Long-Term Care Ombudsman shall refer the matter to the department as provided by section 7 of P.L.1977, c.239 (C.52:27G-7) and, notwithstanding such referral, may take any other appropriate investigatory or enforcement action, with respect to the matter, as may be authorized by P.L.1977, c.239 (C.52:27G-1 et seq.).

4. Within 60 days after the enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Health shall, immediately upon filing proper notice with the Office of Administrative Law, adopt rules and regulations as may be necessary to implement the provisions of this act. The rules and regulations shall include, but need not be limited to, minimum standards for the social isolation prevention policies to be adopted pursuant to section 2 of this act and a penalty schedule to be used pursuant to section 3 of this act. The rules and regulations adopted pursuant to this section shall remain in effect for a period of not more than one year after the date of filing and, thereafter, shall be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

Approved October 23, 2020.