

CHAPTER 135

AN ACT concerning personal protective equipment in long-term care facilities and hospitals 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-12.100 Stockpiling of personal protective equipment in long-term care facilities, hospitals.

1. a. Each long-term care facility shall make a good faith effort to maintain an adequate emergency stockpile of personal protective equipment necessary to meet the facility's need for personal protective equipment for:

(1) In the case of a facility that is part of a system that owns or operates eight or more facilities, 30 days;

(2) In the case of a facility that is part of a system that owns or operates fewer than eight facilities, 60 days; and

For the purposes of meeting the requirements of this subsection, a facility that is not part of a system or that is part of a system that owns or operates fewer than eight facilities may enter into a collaborative agreement with other facilities or with one or more systems, which collaborative agreement shall be deemed to render the facility part of a system comprised of the health care facility and any other health care facilities that are party to the collaborative agreement or that are part of a system that is party to the collaborative agreement. The collaborative agreement shall, at a minimum, include protocols for sharing personal protective equipment among facilities that are part of the system established pursuant to the collaborative agreement.

b. Each general acute care hospital shall make a good faith effort to maintain at least a 90-day emergency stockpile of personal protective equipment at all times. A system comprising multiple hospitals may count the total emergency stockpile of personal protective equipment available at all hospitals that are part of that system when determining whether a hospital is in compliance with the personal protective equipment emergency stockpile requirements set forth in this subsection, provided that the total quantity of personal protective equipment available throughout the system is equivalent to at least a 90-day emergency supply of personal protective equipment for each hospital that is a part of the system.

c. For the purposes of this act, any determination as to whether a long-term care facility has made a good faith effort to maintain a minimum stockpile of personal protective equipment consistent with the requirements of subsection a. of this section or whether a hospital has made a good faith effort to maintain a minimum stockpile of personal protective equipment consistent with the requirements of subsection b. of this section shall take into consideration the current state of the supply chain of personal protective equipment in the State, including, but not limited to, unit cost, recent price increases, overall availability, and delays in shipping times.

d. In determining the quantity of personal protective equipment a long-term care facility or hospital will need to maintain in order to meet the requirements of this section, the facility or hospital shall:

(1) take into account prevailing conditions in the State that may affect the need for and availability of personal protective equipment;

(2) take into account anticipated surges, over the next 90 days, in the need for personal protective equipment at that facility or hospital and at other facilities or hospitals that are part of the same system as the facility or hospital; and

(3) utilize any burn rate calculator or other tool as the Department of Health may designate for use in determining the anticipated need for personal protective equipment.

Each facility and hospital shall immediately reevaluate the adequacy of its stockpile of personal protective equipment upon any declaration of a state of emergency by the Governor or a public health emergency pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) in response to an outbreak, epidemic, or pandemic involving an infectious disease, and shall acquire such additional supplies of personal protective equipment as it determines are necessary to meet increases in the need for and use of personal protective equipment during the state of emergency or public health emergency.

e. The Department of Health may impose fines or other administrative remedies against any facility or hospital that violates the requirements of this section.

f. As used in this section:

“General acute care hospital” means a general acute care hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

“Infectious disease” means a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, virus, or prion. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

“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.).

“Personal protective equipment” means any items commonly used to protect an individual from bacterial or viral infections, including, but not limited to, disinfecting wipes, disposable gloves, disposable gowns, face shields, N95 face masks, surgical masks, or parts thereof.

2. The Commissioner of Health may adopt rules and regulations, in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the provisions of this act.

3. This act shall take effect immediately.

Approved December 14, 2020.