

# STATE OF NEW YORK

3131

2021-2022 Regular Sessions

## IN ASSEMBLY

January 22, 2021

Introduced by M. of A. KIM, STECK, HEVESI, EPSTEIN, L. ROSENTHAL, NIOU, BICHOTTE HERMELYN, GLICK, THIELE, GRIFFIN, MONTESANO, JACOBSON, DICKENS, McMAHON, SEAWRIGHT, STERN, BARRON, ROZIC, BYRNES, GOTTFRIED, BARNWELL, SOLAGES, NORRIS, McDONOUGH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing requirements for residential healthcare facilities during a state disaster emergency involving a disease outbreak

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2803 of the public health law is amended by adding  
2 two new subdivisions 13 and 14 to read as follows:

3 13. In the event of a state disaster emergency as defined under  
4 section twenty of the executive law that involves a disease outbreak,  
5 the department shall issue guidance to residential healthcare facilities  
6 regarding precautions and procedures to take to protect and maintain the  
7 health and safety of residents and staff during the course of an  
8 outbreak, and to prevent widespread transmission of a communicable  
9 disease. Such guidance shall include but not be limited to:  
10 restrictions on visitation and entry into the facility by non-essential  
11 personnel, staff education and training on symptoms and transmission,  
12 screening of all staff prior to the commencement of a work shift, daily  
13 inventory and reporting to the department of personal protective equip-  
14 ment and other supplies, hand hygiene and environmental disinfection,  
15 mask use and source control, resident education and monitoring, place-  
16 ment of residents with confirmed or suspected infections, notification  
17 to the lawful representatives of affected residents of a confirmed or  
18 suspected infection, informing and educating the lawful representative  
19 of the availability of alternative placement options, including but not  
20 limited to home care services authorized under article thirty-six of  
21 this chapter, and making available means of communication for residents

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 to communicate with the lawful representative at least once a day, or  
2 otherwise as is practicable. Upon issuance of such guidance, the depart-  
3 ment shall disseminate it to all administrators of residential health-  
4 care facilities and publish it on the department's website no less than  
5 forty-eight hours after a state disaster emergency has been declared.

6 14. In the event of a state disaster emergency as defined under  
7 section twenty of the executive law that involves a disease outbreak,  
8 the department may utilize public health emergency appropriations for  
9 the purpose of securing alternative placement options, including but not  
10 limited to home care services under article thirty-six of this chapter,  
11 for residents of residential healthcare facilities for the duration of  
12 the state disaster emergency.

13 § 2. The public health law is amended by adding a new section 2808-e  
14 to read as follows:

15 § 2808-e. Residential healthcare facility reporting requirements. 1.  
16 The commissioner of health shall, in the event of an outbreak of a  
17 communicable disease or infection, order all residential healthcare  
18 facilities to report the following information on a daily basis to the  
19 department and the local health department in the county in which the  
20 facility is based: the number of residents or staff with suspected or  
21 confirmed infection of the disease; the number of residents with severe  
22 infection resulting in hospitalization or death; and the number of  
23 fatalities following hospitalization resulting from suspected or  
24 confirmed infection of the disease. The department shall aggregate and  
25 publish de-identified data, submitted by residential healthcare facili-  
26 ties under this section on a weekly basis, in a manner that is consist-  
27 ent with the federal Health Insurance Portability and Accountability  
28 Act, as amended, and any regulations promulgated thereunder.

29 2. For any residential healthcare facility that experiences a fatality  
30 rate of at least five percent of the resident census as a result of a  
31 state disaster emergency or disease outbreak as well as strong indi-  
32 cations that the infection rate within the facility is increasing expo-  
33 nentially, or otherwise attributable to a novel pathogen or known patho-  
34 gen with a high lethality rate, the commissioner shall establish daily  
35 communications with such facility to determine and provide, to the  
36 extent practicable, all necessary supplies, equipment, personnel and  
37 personnel training to ensure the facility is adequately prepared to  
38 ensure the health and safety of the residents. If, in the event that  
39 the fatality and infection rate remains the same or increases over a  
40 fifteen day period from the commissioner's initial contact, due to  
41 negligent and willful actions of the established operator, which may  
42 include, but not be limited to, a willful failure to comply with proce-  
43 dures or utilization of supplies and equipment provided, the commission-  
44 er shall appoint a temporary operator, subject to the provisions of  
45 section twenty-eight hundred six-a of this article to assume sole  
46 control and sole responsibility for the operations of the facility until  
47 the residents of the facility (a) may be safely transferred to another  
48 residential healthcare facility or (b) transferred to a community-based  
49 setting where home care services are delivered under article thirty-six  
50 of this chapter, provided that, such residents qualifying for medical  
51 assistance shall be deemed eligible for immediate need under subdivision  
52 twelve of section three hundred sixty-six-a of the social services law.  
53 If the commissioner has a reasonable belief of imminent harm to the  
54 public, the commissioner may initiate receivership subject to section  
55 twenty-eight hundred ten of this article.

56 § 3. This act shall take effect immediately.