

STATE OF NEW YORK

1080

2021-2022 Regular Sessions

IN SENATE

January 6, 2021

Introduced by Sens. GOUNARDES, MAY -- read twice and ordered printed,
and when printed to be committed 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 Assem-
bly, 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
22 to communicate with the lawful representative at least once a day, or
23 otherwise as is practicable. Upon issuance of such guidance, the depart-
24 ment shall disseminate it to all administrators of residential health-

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

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1 care facilities and publish it on the department's website no less than
2 forty-eight hours after a state disaster emergency has been declared.

3 14. 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 may utilize public health emergency appropriations for
6 the purpose of securing alternative placement options, including but not
7 limited to home care services under article thirty-six of this chapter,
8 for residents of residential healthcare facilities for the duration of
9 the state disaster emergency.

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

12 § 2808-e. Residential healthcare facility reporting requirements. 1.
13 The commissioner of health shall, in the event of an outbreak of a
14 communicable disease or infection, order all residential healthcare
15 facilities to report the following information on a daily basis to the
16 department and the local health department in the county in which the
17 facility is based: the number of residents or staff with suspected or
18 confirmed infection of the disease; the number of residents with severe
19 infection resulting in hospitalization or death; and the number of
20 fatalities following hospitalization resulting from suspected or
21 confirmed infection of the disease. The department shall aggregate and
22 publish de-identified data, submitted by residential healthcare facili-
23 ties under this section on a weekly basis, in a manner that is consist-
24 ent with the federal Health Insurance Portability and Accountability
25 Act, as amended, and any regulations promulgated thereunder.

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

53 § 3. This act shall take effect immediately.