

# STATE OF NEW YORK

10350--A

## IN ASSEMBLY

April 29, 2020

Introduced by M. of A. KIM, STECK, MOSLEY, HEVESI, EPSTEIN, L. ROSEN-  
THAL, NIOU, BICHOTTE, BLAKE, WRIGHT, GLICK, THIELE, GRIFFIN, MONTESA-  
NO, JACOBSON, DICKENS, McMAHON, SEAWRIGHT, SIMOTAS, ORTIZ, JAFFEE,  
STERN, BARRON, ROZIC, BYRNES, PALUMBO, GOTTFRIED -- read once and  
referred to the Committee on Health -- committee discharged, bill  
amended, ordered reprinted as amended and recommitted to said commit-  
tee

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 12 and 13 to read as follows:

3 12. 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

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

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

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

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

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

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

55 § 3. This act shall take effect immediately.