STATE OF NEW YORK

1080--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing requirements for residential health care 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:

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

13. In the event of a state disaster emergency as defined under section twenty of the executive law that involves a disease outbreak, the department shall issue guidance to residential health care facilities regarding precautions and procedures to take to protect and maintain the health and safety of residents and staff during the course of an outbreak, and to prevent widespread transmission of a communicable disease. Such guidance shall include but not be limited to: restrictions on visitation and entry into the facility by non-essential personnel, staff education and training on symptoms and transmission, screening of all staff prior to the commencement of a work shift, daily inventory and reporting to the department of personal protective equipment and other supplies, hand hygiene and environmental disinfection, mask use and source control, resident education and monitoring, placement of residents with confirmed or suspected infections, notification to the lawful representatives of affected residents of a confirmed or suspected infection, informing and educating the lawful representative of the availability of alternative placement options, including but not limited to home care services authorized under article thirty-six of this chapter, and making available means of communication for residents 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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otherwise as is practicable. Upon issuance of such guidance, the department shall disseminate it to all administrators of residential healthcare facilities and publish it on the department's website no less than forty-eight hours after a state disaster emergency has been declared.

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

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

§ 2808-e. Residential health care facility reporting requirements. 1. The commissioner of health shall, in the event of an outbreak of a communicable disease or infection, order all residential health care facilities to report the following information on a daily basis to the department and the local health department in the county in which the facility is based: the number of residents or staff with suspected or confirmed infection of the disease; the number of residents with suspected or confirmed infection resulting in hospitalization or death; and the number of fatalities following hospitalization resulting from suspected or confirmed infection of the disease. The department shall aggregate and publish de-identified data, submitted by residential health care facilities under this section on a weekly basis, in a manner that is consistent with the federal Health Insurance Portability and Accountability Act, as amended, and any regulations promulgated thereunder.

2. For any residential health care facility that experiences a fatality rate of at least five percent of the resident census as a result of a state disaster emergency that involves a disease outbreak as well as strong indications that the infection rate within the facility is increasing exponentially, or otherwise attributable to a novel pathogen or known pathogen with a high lethality rate, the commissioner shall establish daily communications with such facility to determine and provide, to the extent practicable, all necessary supplies, equipment, personnel and personnel training to ensure the facility is adequately prepared to ensure the health and safety of the residents. If, in the event that the fatality and infection rate remains the same or increases over a fifteen day period from the commissioner's initial contact, due to negligent and willful actions of the established operator, which may include, but not be limited to, a willful failure to comply with procedures or utilization of supplies and equipment provided, the commissioner shall appoint a temporary operator, subject to the provisions of section twenty-eight hundred six-a of this article to assume sole control and sole responsibility for the operations of the facility until the residents of the facility (a) may be safely transferred to another residential health care facility or (b) transferred to a community-based setting where home care services are delivered under article thirty-six of this chapter, provided that, such residents qualifying for medical assistance shall be deemed eligible for immediate need under subdivision twelve of section three hundred sixty-six-a of the social services law. If the commissioner has a reasonable belief of imminent harm to the public, the commissioner may initiate receivership subject to section twenty-eight hundred ten of this article.

§ 3. Paragraphs (b) and (c) of subdivision 1 of section 2806-a of the public health law, as added by section 50 of part E of chapter 56 of the laws of 2013, are amended to read as follows:

(b) "established operator" shall mean the operator of an adult care facility, a general hospital [~~or~~], a diagnostic and treatment center that has been established and issued an operating certificate as such pursuant to this article**, or a residential health care facility for the purposes of section twenty-eight hundred eight-e of this article**;

(c) "facility" shall mean (i) a general hospital or a diagnostic and treatment center that has been issued an operating certificate as such pursuant to this article; [~~or~~] (ii) an adult care facility**; or (iii) a residential health care facility for the purposes of section twenty-eight hundred eight-e of this article**;

§ 4. This act shall take effect immediately; provided however that the amendments made to section 2806-a of the public health law made by section three of this act shall not affect the repeal of such section and shall be deemed repealed therewith.