

## Governor Murphy Announces Recommendations of Report of New Jersey's Long-Term Care Industry

Neil M. Sullivan

*Greenbaum, Rowe, Smith & Davis LLP Client Alert*

**June 11, 2020**

Following a study of the long-term care (LTC) industry, New Jersey Governor Phil Murphy recently announced the release of a report with a series of recommendations and proposed changes to be implemented at LTC facilities throughout the state.

The study was conducted by the Manatt Health consulting group during the month of May and was released on June 2, 2020. Commissioned by the New Jersey Department of Health (DOH), the report identifies widespread and long-standing systemic issues within the state's LTC industry that were exacerbated by the COVID-19 pandemic, with a primary focus on nursing homes. It includes recommendations to mitigate the impact of COVID-19 and reduce impacts of future outbreaks, and encompasses recommendations for the DOH, LTC facilities, and state and federal government.

The recommendations reference both near-term and intermediate longer-term changes to strengthen the emergency response capacity of facilities, stabilize the LTC workforce, increase transparency and accountability, and lay the foundation for a more resilient and higher-quality LTC system.

The following is an overview of Manatt Health's assessment of New Jersey's LTC facilities and infrastructure and subsequent recommendations:

### **Emergency Response Capacity**

- Establish a central LTC Emergency Operations Center to coordinate activity and communications for nursing homes and LTC facilities and obtain input regarding staffing, supplies, and operational issues;
- Implement a "reopening" and testing plan. This includes homes attesting to meeting federal requirements for reopening, establishing

### **Attorneys**

Neil M. Sullivan

## Published Articles (Cont.)

“hub” facilities to handle overflow capacity needs, meeting testing requirements, and establishing longer term staffing plans; and,

- Reinforce resident and family communications through standards for content and frequency of such communications, and require staff dedicated to providing communication.

### **Recognize, Stabilize and Bolster Workforce, including Financing**

- Ensure staff access to paid sick leave;
- Institute wage enhancements;
- Implement minimum staffing ratios for direct care;
- Establish a wage floor and wage pass-throughs for Medicaid rate increases;
- Strengthen training and career development opportunities;
- Institute COVID-19 relief payments for COVID-19- related expenses of facilities;
- Review sufficiency of facility rates and link increases to quality and safety, and ensure any increases are passed on to workers;
- Create a Direct Care Ratio to ensure payments to nursing homes, including any increases, are used for patient care rather than insurance profits and administration.

The report does not address the changes that would be required in the current Medicaid system, under which managed care organizations establish Medicaid reimbursement rates through facility-specific contracts.

Appendix D to the report shows existing federal funding sources for COVID-19-related expenses. The report does not address the sources of any additional state expenditures that may be required.

### **Accountability and Transparency**

- Institute new procedures to regulate and monitor facility ownership, with a focus on increasing transparency. The report notes that changes of ownership (CHOWS) are not public, DOH has not historically disapproved a CHOW, information on ownership collected is less than many states require, and there is no subsequent reporting or oversight. The report recommends making the process public and subject to greater scrutiny;
- Improve oversight of and increase penalties for nursing homes by increasing sanctions for non-compliance; and,
- Centralize LTC data collection and processing.

### **System-Wide Improvements**

- Improve safety and quality infrastructure in nursing homes by requiring facilities to maintain an infection-control preventionist, and implement six-month reviews to assess infection-control

effectiveness;

- Strengthen state agency organization and alignment around LTC operations by considering the establishment of a Deputy Commissioner-level position in the DOH to provide oversight across the LTC system and review total staffing; and
- Create a Governor's Task Force to make recommendations on transforming New Jersey's LTC delivery system over the longer term.

The Manatt Health report states that its recommendations will require further planning and statutory or regulatory changes, and that many recommendations will require additional funding. The full report can be accessed here: **Recommendations**.

Please contact the author of this Alert, **Neil M. Sullivan** [nsullivan@greenbaumlaw.com](mailto:nsullivan@greenbaumlaw.com) | 973.577.1804 with questions. Mr. Sullivan is Counsel in the firm's Healthcare Department.