

STATE OF NEW YORK

9681

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. SIMPSON -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to safe staffing levels at nursing homes

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

1 Section 1. Subparagraph (iii) of paragraph (b) and paragraph (d) of
2 subdivision 2 of section 2895-b of the public health law, as added by
3 chapter 156 of the laws of 2021, are amended and a new subparagraph (iv)
4 is added to paragraph (b) to read as follows:

5 (iii) the existence of [~~an acute~~] a labor supply shortage within a
6 particular region. When determining if there is [~~an acute~~] a labor
7 supply shortage within a specific region in a specific quarter, or a
8 shorter period of time as determined by the commissioner, the commis-
9 sioner shall take into consideration the following factors: overall
10 regional labor supply, regional labor supply of available certified
11 nurse aides, licensed practical nurses and registered nurses; regional
12 pay rates for [~~the relevant titles~~] certified nurse aides, licensed
13 practical nurses and registered nurses employed in a nursing home within
14 the particular county or any adjoining county relative to the facility
15 as determined by the federal department of labor, bureau of labor
16 statistics; and evidence that the facility attempted to procure suffi-
17 cient staffing.

18 (iv) The department shall not impose any penalties due to the exist-
19 ence of a labor supply shortage during the period of and for one year
20 following any declared statewide disaster emergency pursuant to section
21 twenty-eight of the executive law relating to healthcare staff short-
22 ages.

23 (d) In determining whether a nursing home has violated its obligations
24 under this section, it shall not be a defense that such nursing home was
25 unable to secure sufficient staff if the lack of staffing [~~was foreseeable~~
26 ~~ble and could be prudently planned for, or~~] involved routine staffing
27 needs that arose due to typical staffing patterns, typical levels of
28 absenteeism, or time off typically approved by the employer for vaca-
29 tion, holidays, sick leave, and personal leave.

30 § 2. This act shall take effect immediately.

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

LBD13408-02-1