S T A T E O F N E W Y O R K

804

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

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

AN ACT to amend the public health law, in relation to the qualifications of operators of health facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 2801-a of the public health law is amended by adding a new subdivision 3-b to read as follows:

3-B. IN CONSIDERING CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY UNDER SUBDIVISION THREE OF THIS SECTION, THE PUBLIC HEALTH COUNCIL SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 2. Section 2805 of the public health law is amended by adding a new subdivision 3 to read as follows:

3. IN DETERMINING WHETHER TO ISSUE OR RENEW AN OPERATING CERTIFICATE TO AN APPLICANT SEEKING TO OPERATE, OR OPERATING, A HOSPITAL IN ACCORDANCE WITH THIS ARTICLE, THE COMMISSIONER SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 3. Section 2810 of the public health law is amended by adding a new subdivision 4 to read as follows:

4. IN DETERMINING WHETHER TO APPOINT ANY PERSON OR ENTITY AS A TEMPORARY RECEIVER THE COMMISSIONER SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

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

LBD03404-01-1

S 4. Section 2896-c of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-A. IN DETERMINING WHETHER TO GRANT ANY PERSON A LICENSE UNDER THIS ARTICLE, THE BOARD SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 5. Section 2897 of the public health law is amended by adding a new subdivision 4 to read as follows:

4. THE LICENSE OR REGISTRATION OF A NURSING HOME ADMINISTRATOR MAY BE SUSPENDED FOR A FIXED PERIOD OR REVOKED OR SUCH ADMINISTRATOR MAY BE CENSURED, REPRIMANDED, SUBJECTED TO A CIVIL PENALTY AND OTHERWISE DISCIPLINED IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES DEFINED IN THIS ARTICLE, UPON DECISION AFTER DUE HEARING THAT, AS THE ADMINISTRATOR OF A NURSING HOME HE OR SHE HAS INTENTIONALLY PARTICIPATED IN ANY ACT, PRACTICE OR POLICY OF SUCH NURSING HOME THAT VIOLATED STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES. NO ADMINISTRATOR SHALL BE DEEMED TO HAVE INTENTIONALLY PARTICIPATED IN ANY ACT, PRACTICE OR POLICY OF A NURSING HOME UNDER THIS SUBDIVISION IF HE OR SHE HAS FILED WRITTEN OBJECTION TO SUCH ACT, PRACTICE OR POLICY WITH THE OPERATOR OF SUCH NURSING HOME, SPECIFYING THE MANNER IN WHICH SUCH ACT, PRACTICE OR POLICY VIOLATES STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 6. Subdivision 4 of section 3605 of the public health law, as amended by section 62 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

4. The public health and health planning council shall not approve an application for licensure unless it is satisfied as to the character, competence and standing in the community of the applicant's incorporators, directors, sponsors, stockholders or operators. IN CONSIDERING CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY UNDER THIS SUBDIVISION, THE PUBLIC HEALTH COUNCIL SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 7. Subdivision 1 of section 3605-a of the public health law, as added by chapter 959 of the laws of 1984, is amended to read as follows:

1. A license of a home care services agency may be revoked, suspended, limited or annulled by the commissioner on proof that it has failed to comply with the provisions of this article [or]; rules and regulations promulgated thereunder; OR STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 8. Subdivision 2 of section 3608 of the public health law, as added by chapter 895 of the laws of 1977, is amended to read as follows:

2. A certified home health agency certificate of approval may be revoked, suspended, limited or annulled by the commissioner on proof that the certified home health agency has failed to comply with the provisions of this article or rules and regulations promulgated thereunder; OR STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES.

S 9. Paragraph (d) of subdivision 1 of section 4403 of the public health law, as added by chapter 938 of the laws of 1976, is amended to read as follows:

(d) the character, competence, and standing in the community of the proposed incorporators, directors, sponsors or stockholders, are satisfactory to the commissioner. IN CONSIDERING CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY, THE COMMISSIONER SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES;

S 10. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.