

STATE OF NEW YORK

11114

IN ASSEMBLY

November 6, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gottfried)
-- read once and referred to the Committee on Health

AN ACT directing the department of health to establish and implement an infection inspection audit and checklist on residential care facilities, nursing homes and long-term care facilities

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

1 Section 1. Definitions. For the purposes of this act, the following
2 terms shall have the following meanings:

3 (a) "Department" means the department of health.

4 (b) "Facility" means a licensed nursing home, residential health care
5 facility, or a facility providing long-term health-related services.

6 (c) "Nursing home" means a facility providing therein nursing care to
7 sick, invalid, infirm, disabled or convalescent persons in addition to
8 lodging and board or health-related service, or any combination of the
9 foregoing, and in addition thereto, providing nursing care and health-
10 related service, or either of them, to persons who are not occupants of
11 the facility.

12 (d) "Audit" means the infection control competency audit created by
13 the department under this act.

14 (e) "Checklist" means the infection control competency audit checklist
15 created by the department under this act.

16 § 2. Establishing the infection control competency audit. (a) The
17 department shall promulgate rules and regulations establishing an
18 infection control competency audit consistent with the provisions of
19 this act. The audit shall include a competency checklist which incorpo-
20 rates specific core competencies based on guidance set forth in this
21 act.

22 (b) The department shall conduct audits on and after October 1, 2020.

23 § 3. Audit evaluation. (a) The infection control competency audit
24 shall utilize a checklist with a point system to evaluate the competency
25 of the facility being audited. Each item in the checklist shall be
26 valued at one point. In order to receive a point for items that have sub
27 items each sub-item must be met. Facilities subject to the infection
28 control competency audit shall be required to fulfill the required
29 criteria of a minimum of eighty percent of the audit checklist.

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

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1 (b) If a facility meets at least eighty-five percent of the criteria
2 within the checklist, the facility will be scored as "in adherence" with
3 the infection control competency audit.

4 (c) If a facility only meets sixty percent of the required criteria
5 within the checklist, the facility will be scored as "in adherence but
6 warrants reinspection."

7 (d) If a facility meets less than sixty percent of the criteria within
8 the checklist, the facility will be scored as "not in adherence."

9 § 4. Facilities not in adherence with infection control competency
10 audit. (a) The department shall establish a penalty framework for those
11 facilities determined to be "not in adherence" with the inspection
12 control checklist. A facility being found "not in adherence" may result
13 in revocation or suspension of the facility's license; provided, howev-
14 er, that no such revocation shall be ordered unless the department has
15 provided the facility with a fourteen day grace period, solely for a
16 facility's first time being found "not in adherence", to meet at least
17 eighty percent of the criteria within the checklist.

18 (b) Audits shall occur at two-week intervals for facilities that are
19 found to be "not in adherence" by the established infection control
20 competency checklist until such facilities meet at least eighty percent
21 of the criteria within the checklist.

22 § 5. Audit standards core competencies. The department shall establish
23 an infection control competency audit and checklist for facilities which
24 shall include, but not be limited to:

25 (a) Infection control. (i) The facility shall have an infection lead
26 to:

27 (A) address and improve infection control based on federal and state
28 public health advisories; and

29 (B) spend an adequate time in the building focused on activities dedi-
30 cated to infection control.

31 (ii) The facility shall have an infection control program with written
32 policies and procedures which includes, but is not limited to:

33 (A) A written plan to investigate, control and take action to prevent
34 infections in the facility;

35 (B) Written procedures to allow for isolation and universal precau-
36 tions for residents suspected or confirmed to have a contagious or
37 infectious disease; and

38 (C) A record of incidence and corrective actions related to
39 infections.

40 (iii) During recognized periods of contagious or infectious disease
41 outbreaks, the facility shall have screening requirements for every
42 individual entering the facility, including staff, for infectious
43 disease symptoms.

44 (iv) The facility shall establish a dedicated area for those residents
45 confirmed by testing to be infected with an infectious disease or are
46 recovering from an infectious disease.

47 (v) The facility shall have a staffing plan to limit transmission that
48 shall include, but not be limited to:

49 (A) Dedicated, consistent staffing teams who directly interact with
50 residents that are confirmed or suspected to be infected with a conta-
51 gious or infectious disease; and

52 (B) Limiting clinical and other staff who have direct resident contact
53 to specific areas of the facility. There should be no rotation of staff
54 between various areas of the facility during the period they are working
55 each day during periods of recognized outbreaks.

1 (vi) The facility shall have ensured ongoing access to the necessary
2 supplies for hand hygiene.

3 (vii) The facility shall have ensured ongoing access to federally
4 registered hospital disinfectants or centers for disease control accept-
5 able alternatives to allow for necessary and appropriate cleaning and
6 disinfecting of high touch surfaces and shared resident care equipment.

7 (b) Personal protective equipment. (i) The facility shall possess and
8 maintain a supply of all necessary items of personal protective equip-
9 ment in line with the most recent department guidance to protect facili-
10 ty personnel and residents.

11 (ii) The facility has a contingency plan to address supply shortages
12 of personal protective equipment.

13 (iii) The facility shall train staff and establish protocols for
14 selecting, donning and doffing appropriate personal protective equipment
15 and demonstrate competency during resident care.

16 (iv) The facility shall ensure availability of personal protective
17 equipment throughout the facility and outside resident rooms when there
18 are units with separate cohorted spaces for both positive and negative
19 infectious disease residents.

20 (v) The facility shall require the use of recommended personal protec-
21 tive equipment for all front-line staff in line with the most recent
22 department personal protective equipment guidance.

23 (c) Staffing. (i) The facility shall demonstrate that there has been
24 advanced planning, in alignment with the facility's emergency prepared-
25 ness plans, for backup staffing utilizing all resources in advance of
26 staff testing to be able to cover shifts based on potential staff quar-
27 antines.

28 (ii) The facility shall have an employee responsible for conducting a
29 daily assessment of staffing status and needs during outbreak of infec-
30 tious or contagious disease.

31 (d) Clinical care. (i) The facility shall have infection control
32 policies that outline the recommended transmission-based precautions
33 that should be used when caring for residents with respiratory
34 infection. These policies shall accommodate for department and centers
35 for disease control guidance on personal protective equipment conserva-
36 tion methods.

37 (ii) The facility shall ensure all health care professionals which
38 enter the facility have been trained to recognize the signs and symptoms
39 of COVID-19 and other infectious diseases.

40 (iii) The facility has written requirements for residents to be
41 screened for symptoms and have their vital signs monitored, including
42 oxygen saturation and temperature checks at a minimum of two times per
43 day and documented in the clinical record during a recognized outbreak
44 of contagious or infectious diseases.

45 (iv) The facility shall ensure that residents with any suspected
46 respiratory or infectious illnesses are assessed at a more frequent
47 rate.

48 (e) Communication. The facility shall have a written plan for daily
49 communications with staff, residents, and the resident's families
50 regarding the status and impact of COVID-19 in the facility, including
51 but not limited to the prevalence of confirmed cases of COVID-19 in
52 staff and residents and personal protective equipment availability.

53 (f) Reporting. The facility shall have a written plan for reporting of
54 increased incidence of infections to the appropriate area office of the
55 office of health systems management.

56 § 6. This act shall take effect immediately.