

# 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.