STATE OF NEW YORK

3162

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. KIM, WALSH, SANTABARBARA, BUTTENSCHON, RA, M. MILLER, STECK, TAGUE, SEAWRIGHT, PALMESANO -- read once and referred to the Committee on Health

AN ACT establishing a temporary state commission to study and investigate the effects of the COVID-19 pandemic response on deaths in nursing homes; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Definitions. As used in this act:

a. "commission" means the commission to investigate COVID-19 in nursing homes created by section two of this act; and

b. "nursing home" means a nursing home as defined in subdivision one of section 2895-a of the public health law.

§ 2. Commission on long term care facilities. a. A temporary state commission, to be known as the commission to investigate COVID-19 in nursing homes (hereinafter the "commission"), is hereby created to study and make recommendations concerning the following:

(1) the measures taken by nursing homes to ensure the safety of their residents during and in response to the novel coronavirus pandemic (hereinafter "COVID-19");

(2) the success or failure of such measures in reducing or slowing the spread of COVID-19;

(3) any increase in death rates of nursing home residents attributable to COVID-19;

(4) the effectiveness of current state and federal laws, executive orders, rules, regulations and recommendations governing the response of nursing homes to COVID-19; and

(5) such other matters as the commission deems appropriate.

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

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b. The commission shall make recommendations for legislation, rules and/or regulations relating to the handling of future pandemic responses by nursing homes.

c. (1) The commission shall consist of five members to be appointed as follows: one member shall be appointed by the attorney general; one member shall be a member of the senate, appointed by the temporary president of the senate; one member shall be a member of the assembly, appointed by the speaker of the assembly; one member shall be a member of the senate, appointed by the minority leader of the senate; and one member shall be a member of the assembly, appointed by the minority leader of the assembly. The member appointed by the attorney general shall be the chair of the commission.

(2) All appointees to the commission must have a background in health care and/or health policy. Any vacancy on the commission shall be filled in the same manner as the original appointment was made.

(3) No member, officer or employee of the commission shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such office or employment by reason of his or her appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

(4) All members of the commission shall be appointed within sixty days of the effective date of this section. The first meeting of the commission shall take place within thirty days after appointment of all members of the commission.

d. The members of the commission shall receive no compensation for their services.

e. The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available by appropriation therefor, if any, or by donation, if any. The commission may meet and hold public and/or private hearings within or without the state, and shall have all the powers of a legislative committee pursuant to the legislative law.

f. For the accomplishment of its purposes, the commission shall be authorized and empowered to undertake any studies, inquiries, surveys or analyses it may deem relevant through its own personnel or in cooperation with or by agreement with any other public or private agency.

g. The commission may request and shall receive from any agency in the state and from any subdivision, department, board, bureau, commission, office, agency or other instrumentality of the state or of any political subdivision thereof such facilities, assistance and data as it deems necessary or desirable for the proper execution of its powers and duties and to effectuate the purposes set forth in this section.

h. The commission is hereby authorized and empowered to enter into any agreements and to do and perform any acts that may be necessary, desirable or proper to carry out the purposes and objectives of this section.

i. The commission may administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation.

§ 3. The commission shall make a report of its findings and recommendations and shall submit such report, including any recommendations for legislative action as it may deem necessary and appropriate, to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the

assembly and all members of each house of the New York state legislature one year after the first meeting of the commission.

§ 4. This act shall take effect immediately and shall continue in full force and effect until one year after the report and recommendations of the commission on the novel coronavirus pandemic response in nursing home facilities is delivered to the governor and the legislature when upon such date the provisions of this act shall be deemed repealed; provided that the attorney general shall notify the legislative bill drafting commission upon the occurrence of the delivery of the report provided for in section three of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.