

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 investi-
gate the effects of the COVID-19 pandemic response on deaths in nurs-
ing homes; and providing for the repeal of such provisions upon expi-
ration thereof

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

- 1 Section 1. Definitions. As used in this act:
2 a. "commission" means the commission to investigate COVID-19 in nurs-
3 ing homes created by section two of this act; and
4 b. "nursing home" means a nursing home as defined in subdivision one
5 of section 2895-a of the public health law.
6 § 2. Commission on long term care facilities. a. A temporary state
7 commission, to be known as the commission to investigate COVID-19 in
8 nursing homes (hereinafter the "commission"), is hereby created to study
9 and make recommendations concerning the following:
10 (1) the measures taken by nursing homes to ensure the safety of their
11 residents during and in response to the novel coronavirus pandemic
12 (hereinafter "COVID-19");
13 (2) the success or failure of such measures in reducing or slowing the
14 spread of COVID-19;
15 (3) any increase in death rates of nursing home residents attributable
16 to COVID-19;
17 (4) the effectiveness of current state and federal laws, executive
18 orders, rules, regulations and recommendations governing the response of
19 nursing homes to COVID-19; and
20 (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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1 b. The commission shall make recommendations for legislation, rules
2 and/or regulations relating to the handling of future pandemic responses
3 by nursing homes.

4 c. (1) The commission shall consist of five members to be appointed as
5 follows: one member shall be appointed by the attorney general; one
6 member shall be a member of the senate, appointed by the temporary pres-
7 ident of the senate; one member shall be a member of the assembly,
8 appointed by the speaker of the assembly; one member shall be a member
9 of the senate, appointed by the minority leader of the senate; and one
10 member shall be a member of the assembly, appointed by the minority
11 leader of the assembly. The member appointed by the attorney general
12 shall be the chair of the commission.

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

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

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

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

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

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

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

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

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

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

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

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