

STATE OF NEW YORK

6057

2021-2022 Regular Sessions

IN ASSEMBLY

March 5, 2021

Introduced by M. of A. BURKE -- 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 nursing home or residential health care facility
5 as defined in article 28 of the public health law.

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 for a facility consistent with the
19 provisions of this act. The audit shall include a competency checklist
20 which incorporates specific core competencies based on guidance set
21 forth in this act.

22 (b) The department shall commence audits of facilities on and after
23 October 1, 2021 and such audits shall be conducted on an annual basis
24 thereafter.

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

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§ 3. Audit evaluation. (a) The infection control competency audit shall utilize a checklist to evaluate the competency of the facility being audited. Facilities subject to the infection control competency audit shall be required to fulfill the required criteria of a minimum of eighty-five percent of the audit checklist.

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

(c) If a facility meets between sixty percent and eighty-four percent of the required criteria within the checklist, the facility will be scored as "in adherence but warrants reinspection." Such facility will be subject to reinspection by the department at least once before the next annual inspection.

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

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

(b) Audits shall continue at monthly intervals for facilities that are found to be "not in adherence" by the established infection control competency checklist until such facilities meet at least eighty percent of the criteria within the checklist.

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

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

(A) address and improve infection control based on federal and state public health advisories and review and implement the facility's pandemic emergency plan as required by subdivision 12 of section 2803 of the public health law; and

(B) spend an adequate time at the facility focused on activities dedicated to infection control.

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

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

(B) Written procedures to allow for isolation and universal precautions for residents suspected or confirmed to have a contagious or infectious disease; and

(C) A record of incidences and corrective actions related to infections at the facility.

(iii) During recognized periods of contagious or infectious disease outbreaks, the facility shall have screening requirements for every individual entering the facility, including staff, for symptoms associated with the infectious disease outbreak.

(iv) The facility shall establish dedicated distinct areas for residents confirmed or suspected to be infected with an infectious disease or are recovering from an infectious disease. Policies and procedures shall be developed to isolate residents suspected to be infected with an

1 infectious disease in quarantine until their infection status can be
2 determined.

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

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

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

12 (vi) The facility shall ensure ongoing access to the necessary
13 supplies for hand hygiene for staff and residents.

14 (vii) The facility shall ensure ongoing access to federally registered
15 hospital disinfectants or centers for disease control acceptable alter-
16 natives to allow for necessary and appropriate cleaning and disinfecting
17 of high traffic surfaces and shared resident care equipment.

18 (b) Personal protective equipment. (i) The facility shall possess and
19 maintain or contract to have at least a two month supply of all neces-
20 sary items of personal protective equipment in line with the most recent
21 department guidance and statutes.

22 (ii) The facility shall develop a contingency plan to address supply
23 shortages of personal protective equipment.

24 (iii) The facility shall train staff and establish protocols for
25 selecting, donning and doffing appropriate personal protective equipment
26 and demonstrate competency during resident care. The facility must keep
27 a record of this staff training.

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

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

35 (vi) The facility must designate a staff member who is present at
36 every shift who is responsible for ensuring the proper use of personal
37 protective equipment by all staff.

38 (c) Staffing. (i) The facility shall demonstrate that there has been
39 advanced planning, in alignment with the facility's emergency prepared-
40 ness plans and pandemic emergency plan, for contingent staffing needs in
41 the case of staff quarantines.

42 (ii) The facility shall have an employee responsible for conducting a
43 daily assessment of staffing status and needs during an outbreak of
44 infectious or contagious diseases.

45 (iii) The facility shall institute a sick-leave policy that does not
46 punish staff with disciplinary action if they are absent from work
47 because they are exhibiting symptoms, or test positive, for an infec-
48 tious disease. Such policies shall offer the maximum amount of flexibil-
49 ity to staff and be consistent with state guidance.

50 (d) Clinical care. (i) The facility shall have infection control
51 policies that outline the recommended transmission-based precautions
52 that should be used when caring for residents with respiratory
53 infection. These policies shall accommodate for department and centers
54 for disease control guidance on personal protective equipment conserva-
55 tion methods.

1 (ii) The facility shall ensure all health care professionals which
2 enter the facility have been trained to recognize the signs and symptoms
3 of infectious diseases.

4 (iii) The facility has written requirements for residents to be
5 screened for symptoms and have their vital signs monitored, including
6 oxygen saturation and temperature checks in accordance with the most
7 recent state or federal guidance and and documented in the clinical
8 record during a recognized outbreak of contagious or infectious
9 diseases.

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

13 (e) Written communication plan. The facility shall have a written
14 plan for daily communications with staff, residents, and the residents'
15 families regarding the status of infections at the facility. Such plan
16 shall be consistent with the requirements set forth in paragraph (a) of
17 subdivision 12 of section 2803 of the public health law. The facility
18 must designate a staff member who is responsible for these communi-
19 cations with staff, residents and residents' families.

20 § 6. This act shall take effect ninety days after it shall have become
21 a law.