

# STATE OF NEW YORK

6057--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 5, 2021

Introduced by M. of A. BURKE, COLTON, STIRPE, GRIFFIN, JACOBSON, BUTTENSCHON, BICHOTTE HERMELYN, GALEF -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to directing the department of health to establish and implement an infection inspection audit and checklist on nursing homes

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

1 Section 1. The public health law is amended by adding a new section  
2 2803-aa to read as follows:

3 § 2803-aa. Nursing home infection control competency audit. 1. The  
4 commissioner shall establish in the department a program for audits of  
5 nursing homes to measure specific core competencies relating to  
6 infection control of each nursing home. The audits shall commence on  
7 October 1, 2021, and shall be conducted annually thereafter.

8 2. (a) The audit shall utilize a checklist to evaluate infection  
9 control competency of each nursing home.

10 (b) A nursing home meeting at least eighty-five percent of the crite-  
11 ria on the checklist shall be scored as "proficient" in infection  
12 control competency.

13 (c) If a nursing home meets between sixty percent and eighty-four  
14 percent of the required criteria within the checklist, the nursing home  
15 will be scored as "proficiency pending reinspection." Such nursing home  
16 will be audited by the department at least once before the next annual  
17 inspection.

18 (d) A nursing home that meets less than sixty percent of the criteria  
19 within the checklist, or fails a proficiency pending reinspection, shall  
20 be scored as "not proficient".

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

LBD02904-06-1

1 Facilities scored as "not proficient" shall continue to be audited at  
2 monthly intervals until such facilities meet at least eighty-five  
3 percent of the criteria within the checklist.

4 3. An audit of core competencies shall include, but not be limited to,  
5 the following, and shall be consistent with applicable federal, state  
6 and local guidelines and requirements:

7 (a) Infection control. (i) The nursing home shall assign an infection  
8 lead staff person to implement infection control based on federal and  
9 state public health advisories, guidelines and rules.

10 (ii) The nursing home shall have a written infection control program  
11 which includes, but is not limited to:

12 (A) A plan to investigate, control and take action to prevent  
13 infections in the nursing home;

14 (B) Procedures for isolation and universal precautions for residents  
15 suspected or confirmed to have a contagious or infectious disease; and

16 (C) A record of incidences and corrective actions related to  
17 infections at the nursing home.

18 (iii) During an officially declared national emergency, or state or  
19 municipal emergency declared pursuant to article two-B of the executive  
20 law, related to a contagious or infectious disease outbreak, the nursing  
21 home shall have screening requirements for every individual entering the  
22 facility, including staff, for symptoms associated with the infectious  
23 disease outbreak.

24 (iv) The nursing home shall have a staffing plan to limit transmission  
25 that shall include, but not be limited to:

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

29 (B) Limiting clinical and other staff who have direct resident contact  
30 to specific areas of the facility. There shall be no rotation of staff  
31 between various areas of the facility during the period they are working  
32 each day during periods of recognized outbreaks.

33 (v) The nursing home shall ensure ongoing access to the necessary  
34 supplies for hand hygiene for staff and residents, hospital disinfec-  
35 tants or alternatives to allow for necessary and appropriate cleaning  
36 and disinfecting of surfaces and shared resident care equipment.

37 (vi) The nursing home shall train staff and establish protocols for  
38 selecting, donning and doffing appropriate personal protective equipment  
39 and demonstrate competency during resident care. The nursing home must  
40 keep a record of staff training in proper storage, use, reuse, and  
41 disposal of personal protective equipment.

42 (vii) The nursing home must designate a staff member for every shift  
43 who is responsible for ensuring the proper use of personal protective  
44 equipment by all staff.

45 (b) The nursing home shall demonstrate that there has been advanced  
46 planning, in alignment with the facility's emergency preparedness plans  
47 and pandemic emergency plan, for contingent staffing needs in the case  
48 of staff quarantines that shall have an employee responsible for  
49 conducting a daily assessment of staffing status and needs during an  
50 outbreak of infectious or contagious diseases, and institute a sick-  
51 leave policy that does not punish staff with disciplinary action if they  
52 are absent from work because they are exhibiting symptoms, or test posi-  
53 tive, for an infectious disease. Such policies shall offer the maximum  
54 amount of flexibility to staff and be consistent with state guidance.

55 (c) The nursing home shall have a written plan for daily communi-  
56 cations with staff, residents, and the residents' families regarding the

1 status of infections at the nursing home. Such plan shall be consistent  
2 with the requirements set forth in paragraph (a) of subdivision twelve  
3 of section twenty-eight hundred three of this article. The nursing home  
4 must designate one or more staff members who are responsible for these  
5 communications with staff, residents and residents' families.

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