STATE OF NEW YORK

7445

2021-2022 Regular Sessions

IN ASSEMBLY

May 10, 2021

Introduced by M. of A. JENSEN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing evidence-based, flexible staffing models for general hospitals and nursing homes

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

Section 1. The public health law is amended by adding a new article 28-F to read as follows:

ARTICLE 28-F

SAFE STAFFING IN HOSPITALS AND NURSING HOMES

Section 2900. Definitions.

2900-a. Commission on hospital staffing.

2900-b. Hospital staffing models and requirements.

2900-c. Commission on nursing home staffing.

2900-d. Nursing home staffing models and requirements.

§ 2900. Definitions. For the purposes of this article, the term:

1. "Hospital" means a general hospital as defined in section twenty-eight hundred one of this chapter.

2. "Nursing home" means a nursing home as defined in section twenty-eight hundred one of this chapter.

3. "Nurse" means a registered professional nurse or licensed practical nurse licensed pursuant to article one hundred thirty-nine of the education law.

4. "Allied healthcare professional" means a person, other than a nurse, physician, physician assistant, specialist assistant, or nurse practitioner, who is licensed or certified to practice a healthcare profession under title eight of the education law, acting within the scope of his or her practice.

5. "Direct-care nurse" and "direct-care nursing staff" means any nurse who has principal responsibility to oversee or carry out medical regimens, nursing, or other bedside care for one or more patients.

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

LBD11082-01-1

6. "Non-nursing direct-care staff" means any employee who is not a nurse, allied healthcare professional, physician, physician assistant, specialist assistant, or nurse practitioner whose principal responsibility is to carry out patient care for one or more patients or provides direct assistance in the delivery of patient care.

§ 2900-a. Commission on hospital staffing. 1. There shall be established within the department a commission on hospital staffing to be composed of fifteen members appointed by the governor, with ten of these members appointed as follows:

(a) three members upon the recommendation of the temporary president of the senate;

(b) two members upon the recommendation of the minority leader of the senate;

(c) three members upon the recommendation of the speaker of the assembly; and

(d) two members upon the recommendation of the minority leader of the assembly.

2. The commission's membership shall contain:

(a) the commissioner or his or her designee;

(b) seven nurses, of whom at least four shall be direct-care nurses and at least two of whom shall be representative of recognized or certified collective bargaining agents of non-nursing direct care staff;

(c) two representatives of non-nursing direct-care staff, of whom at least one shall be a representative of recognized or certified collective bargaining agents of non-nursing direct care staff;

(d) three representatives of hospital administrators; and

(e) two representatives of allied health professionals.

3. Vacancies in the membership of the commission shall be filled by the appropriate appointing authority. The governor shall select a chairperson from among the members of the commission. Membership on the commission shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state.

4. The commission shall meet on at least an annual basis, or at the request of the commissioner, to review and update the hospital staffing models created pursuant to section twenty-nine hundred-b of this article.

§ 2900-b. Hospital staffing models and requirements. 1. The commissioner, after consulting with the commission on hospital staffing established pursuant to section twenty-nine hundred-a of this article, shall promulgate regulations establishing hospital staffing models.

2. These models shall:

(a) be based on the best available evidence regarding staffing and patient safety;

(b) provide hospitals with the opportunity to adjust staffing levels in response to the relative skill of the professional staff and the current acuity of the patients;

(c) address the patient care roles played by direct-care nursing staff, non-nursing direct-care staff, and allied health professionals; and

(d) be adaptable to the relative availability of staff in the regional labor market where the facility is located.

§ 2900-c. Commission on nursing home staffing. 1. There shall be established within the department a commission on nursing home staffing to be composed of fifteen members appointed by the governor, with ten of these members appointed as follows:

(a) three members upon the recommendation of the temporary president of the senate;

(b) two members upon the recommendation of the minority leader of the senate;

(c) three members upon the recommendation of the speaker of the assembly; and

(d) two members upon the recommendation of the minority leader of the assembly.

2. The commission's membership shall contain:

(a) the commissioner or his or her designee;

(b) seven nurses, of whom at least four shall be direct-care nurses and at least two of whom shall be representative of recognized or certified collective bargaining agents of non-nursing direct care staff;

(c) two representatives of non-nursing direct-care staff, of whom at least one shall be a representative of recognized or certified collective bargaining agents of non-nursing direct care staff;

(d) three representatives of nursing home operators; and

(e) two representatives of allied health professionals.

3. Vacancies in the membership of the commission shall be filled by the appropriate appointing authority. The governor shall select a chairperson from among the members of the commission. Membership on the commission shall be reflective of the diversity of the state's population including, but not limited to, the various geographic areas and population densities throughout the state.

4. The commission shall meet on at least an annual basis, or at the request of the commissioner, to review and update the nursing home staffing models created pursuant to section twenty-nine hundred-d of this article.

§ 2900-d. Nursing home staffing models and requirements. 1. The commissioner, after consulting with the commission on nursing home staffing established pursuant to section twenty-nine hundred-c of this article, shall promulgate regulations establishing nursing home staffing models.

2. These models shall:

(a) be based on the best available evidence regarding staffing and patient safety;

(b) provide nursing homes with the opportunity to adjust staffing levels in response to the relative skill of the professional staff and the current acuity of the patients;

(c) address the patient care roles played by direct-care nursing staff, non-nursing direct-care staff, and allied health professionals; and

(d) be adaptable to the relative availability of staff in the regional labor market where the facility is located.

§ 2. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, or ruled by any federal agency to violate or be inconsistent with any applicable federal law or regulation, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act.

§ 3. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.