

# STATE OF NEW YORK

8168

2021-2022 Regular Sessions

## IN ASSEMBLY

July 7, 2021

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

AN ACT to amend the public health law, in relation to creating a nursing home resident quality and safety study; 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:

1 Section 1. The public health law is amended by adding a new section  
2 2804-b to read as follows:

3 § 2804-b. Nursing home resident quality and safety study. 1. Defi-  
4 nitions. For the purposes of this section, the following terms shall  
5 have the following meanings:

6 (a) "Frailty index" means a globally recognized methodology used to  
7 measure the health status of elderly individuals.

8 (b) "Frailty score" means a score given to an individual analyzed  
9 using the frailty index.

10 (c) "The study" means the nursing home resident quality and safety  
11 study conducted pursuant to this section.

12 (d) "Minimum data set" means a federally mandated process for clinical  
13 assessment of all residents in Medicare or Medicaid certified nursing  
14 homes.

15 (e) "The demonstration team" means a private business appointed by the  
16 commissioner that has the resources and technology available to collect  
17 minimum data set data for all nursing homes in New York state for analy-  
18 sis, and to perform all tasks necessary for the completion of the study.

19 (f) "Nursing home" or "facility" means a nursing home as defined by  
20 section twenty-eight hundred one of this article.

21 (g) "Applicant" means a nursing home that has submitted an application  
22 to participate in the study.

23 (h) "Participating facility" means an applicant that has been approved  
24 be the commissioner to participate in the study.

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

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1 (i) "Control group" means the group of participating facilities acting  
2 as a control during the study by not implementing the use of frailty  
3 index methodology.

4 (j) "Intervention group" means the group of participating facilities  
5 implementing the use of frailty index methodology.

6 (k) "Residential health care facility quality incentive payment  
7 program" means the program established pursuant to section twenty-eight  
8 hundred one-f of this article.

9 2. Nursing home resident quality and safety study established. The  
10 commissioner shall undertake a study on the adoption of the frailty  
11 index methodology to improve the quality of care in nursing homes,  
12 achieve better outcomes for nursing home residents, and help New York  
13 state more appropriately direct payments to providers based on quality  
14 performance, pursuant to this section.

15 3. Application and acceptance for participation. (a) The commissioner  
16 shall make available a method for nursing homes to apply for partic-  
17 ipation in the study. The study shall receive such applicants on a  
18 first-come first-serve basis.

19 (b) The commissioner shall accept an equal number of nursing home  
20 applicants for participation in the study from each department region.

21 (c) Applicants accepted for participation in the study shall, at the  
22 time of submission of an application, have an occupancy rate of seventy  
23 percent or greater.

24 (d) At least twenty percent of applicants accepted for participation  
25 in the study shall be a non-profit or public facility.

26 4. Categorization of data. Data from participating facilities shall be  
27 categorized as follows:

28 (a) Facilities having:

29 (i) three hundred beds or more;

30 (ii) one hundred to two hundred ninety-nine beds; and

31 (iii) ninety-nine beds or fewer;

32 (b) Facilities operating:

33 (i) as part of a hospital; and

34 (ii) independently from a hospital; and

35 (c) Facilities having a rating of:

36 (i) one to two stars; and

37 (ii) three to five stars.

38 5. Control and intervention groups. Participating facilities shall be  
39 divided evenly into a control group and an intervention group. Partic-  
40 ipating facilities in the control group shall make no changes, other  
41 than reporting data as directed by the commissioner. Participating  
42 facilities in the intervention group shall implement frailty index meth-  
43 odology pursuant to this section.

44 6. Demonstration team. (a) The commissioner shall contract with a  
45 demonstration team, to perform all tasks necessary for the completion of  
46 the study, under the direction of the commissioner. The demonstration  
47 team shall:

48 (i) Train and provide certification in the frailty index methodology  
49 to staff in the intervention group, including but not limited to nurses'  
50 aides, nurses, physicians, therapists, dietary staff, recreation, social  
51 workers, managers, and administrative leaders;

52 (ii) Collect minimum data set data for all participating facilities,  
53 and collect frailty score data from facilities in the intervention  
54 group;

1 (iii) Collect performance data on New York state quality measures  
2 included in the residential health care facility quality incentive  
3 payment program for all participating facilities; and

4 (iv) Track nursing home resident information for all participating  
5 facilities including hospital transfers and readmissions, polypharmacy  
6 use, falls, pain, pressure ulcers, and other information as directed by  
7 the commissioner.

8 (b) The commissioner shall be authorized to pay reasonable compen-  
9 sation to the demonstration team within the limits provided by appropri-  
10 ation.

11 7. Frailty index methodology training. (a) Staff certified and trained  
12 in the frailty index methodology pursuant to subparagraph (i) of para-  
13 graph (a) of subdivision six of this section shall be authorized to  
14 train staff in nursing homes throughout the state in the frailty index  
15 methodology after the completion of the study.

16 (b) Such training shall be conducted during off-hours, and participat-  
17 ing facilities shall cover the cost for such training. Such participat-  
18 ing facilities shall be reimbursed by the state for training expenses  
19 upon the completion of the study.

20 (c) All participating facilities that complete the study shall receive  
21 a twenty-five percent discount from the state that shall be applied to  
22 frailty index methodology training of future employees.

23 8. Timeline of the study. The study shall follow the following time-  
24 line:

25 (a) Upon the effective date of this section, the commissioner shall  
26 begin accepting applications from nursing homes applying to participate  
27 in a study pursuant to subdivision three of this section;

28 (b) On or before the thirtieth day after the effective date of this  
29 section, the commissioner shall have selected all participating facili-  
30 ties from applicants pursuant to subdivision three of this section, and  
31 shall have appointed a demonstration team pursuant to subdivision six of  
32 this section;

33 (c) Beginning the sixtieth day after the effective date of this  
34 section, the demonstration team shall begin collecting minimum data set  
35 data from participating facilities from the prior year to establish a  
36 baseline performance for participating facilities;

37 (d) On or before the one hundred twentieth day after the effective  
38 date of this section, the demonstration team shall complete the frailty  
39 index methodology training pursuant to subdivision seven of this  
40 section;

41 (e) Beginning on the one hundred twentieth day after the effective  
42 date of this section, participating facilities in the intervention group  
43 shall begin implementing the frailty index methodology;

44 (f) Upon the fourteenth month after the effective date of this  
45 section, the demonstration team shall issue a report on the year-one  
46 results of the study to the governor, the speaker of the assembly, the  
47 temporary president of the senate, and the chairs of the senate and  
48 assembly health and aging committees;

49 (g) The study shall end upon the eighteenth month after the effective  
50 date of this section; and

51 (h) Upon the twenty-first month after the effective date of this  
52 section, the demonstration team shall issue a final report including the  
53 findings of the study and recommendations for future legislative,  
54 program, provider, and other stakeholder actions to the governor, the  
55 speaker of the assembly, the temporary president of the senate, and the  
56 chairs of the senate and assembly health and aging committees.

1 9. Use of funds. The commissioner shall be authorized to use funds  
2 received from the federal civil money penalty reinvestment program for  
3 the purposes of this section.

4 § 2. This act shall take effect September 1, 2021, and shall expire  
5 and be deemed repealed 2 years after such date.