STATE OF NEW YORK

8775

IN ASSEMBLY

January 11, 2022

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

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:

Section 1. Subdivisions 1 and 2 and the opening paragraph and subparagraphs (iv) and (vii) of paragraph (a) of subdivision 3 of section 2803-aa of the public health law, as added by a chapter of the laws of 2021 amending the public health law relating to directing the department of health to establish and implement an infection inspection control audit and checklist on nursing homes, as proposed in legislative bills numbers S. 1783-A and A. 6057-A, are amended to read as follows:

1. The commissioner shall establish in the department a program for audits of nursing homes to measure specific core competencies relating to infection control of each nursing home. The audits shall commence on [~~October~~] December 1, [~~2021~~] 2022, and shall be conducted annually thereafter.

2. (a) The audit shall utilize a checklist that is consistent with focused infection control survey standards issued by the federal centers for Medicare and Medicaid services to evaluate infection control competency of each nursing home.

(b) A nursing home [~~meeting at least eighty-five percent of the criteria on the checklist shall~~] must meet all metrics on the checklist developed pursuant to paragraph (a) of this subdivision to be scored as [~~"proficient"~~] in compliance with infection control [~~competency~~].

(c) If a nursing home [~~meets between sixty percent and eighty-four percent of the required criteria within the checklist, the nursing home will be scored as "proficiency pending reinspection." Such nursing home will be audited by the department at least once before the next annual inspection~~] fails to meet all metrics on the checklist developed pursuant to paragraph (a) of this subdivision, the department shall conduct another infection control audit within ninety days of the initial deter-

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

LBD02904-08-2

mination. The department shall continue to conduct such ninety day audits until the nursing home is scored as in compliance with infection control competency. The department may also pursue administrative penalties, including but not limited to citation for violation of infection control standards and imposing civil monetary penalties pursuant to section twelve of this chapter.

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

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

An audit of core competencies shall include, but not be limited to, the following, and shall be consistent with [~~applicable federal, state and local guidelines and requirements~~] focused infection control survey standards issued by the federal centers for Medicare and Medicaid services:

(iv) The nursing home shall have a staffing and cohorting plan to limit transmission [~~that shall~~] , which is based on national (for example, centers of disease control and centers for Medicare and Medicaid services), state or local public health authority recommendations. Such staffing and cohorting plan may include, but not be limited to:

(A) [~~Dedicated~~] Having dedicated, consistent staffing teams who directly interact with residents that are confirmed or suspected to be infected with a contagious or infectious disease; [~~and~~]

(B) Limiting clinical and other staff who have direct resident contact to specific areas of the facility[~~. There shall be no rotation of staff~~] and not rotating staff between various areas of the facility during the period they are working each day during periods of recognized outbreaks; and

(C) Having a dedicated space in the facility for cohorting and managing care for residents with an infectious disease, such as COVID-19.

(vii) The nursing home must designate a staff member [~~for every shift~~] or members who is responsible for ensuring the proper use of personal protective equipment by all staff.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the public health law relating to directing the department of health to establish and implement an infection inspection audit and checklist on nursing homes, as proposed in legislative bills numbers S. 1783-A and A. 6057-A, takes effect.