STATE OF NEW YORK

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Cal. No. 351

2021-2022 Regular Sessions

IN SENATE

January 15, 2021

Introduced by Sens. SKOUFIS, BIAGGI, HINCHEY, JACKSON, KRUEGER, MAY, PARKER, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report committed to the committee on Rules ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

§ 2803-aa. Nursing home infection control competency audit. 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 1, 2021, and shall be conducted annually thereafter.

2. (a) The audit shall utilize a checklist 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 be scored as "proficient" in 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.

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

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(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.

3. 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:

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

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

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

(B) Procedures 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 nursing home.

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

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

(A) 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 between various areas of the facility during the period they are working each day during periods of recognized outbreaks.

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

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

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

(b) The nursing home shall demonstrate that there has been advanced planning, in alignment with the facility's emergency preparedness plans and pandemic emergency plan, for contingent staffing needs in the case of staff quarantines that shall have an employee responsible for conducting a daily assessment of staffing status and needs during an outbreak of infectious or contagious diseases, and institute a sick-leave policy that does not punish staff with disciplinary action if they are absent from work because they are exhibiting symptoms, or test posi-

tive, for an infectious disease. Such policies shall offer the maximum amount of flexibility to staff and be consistent with state guidance.

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

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