

STATE OF NEW YORK

4336--A

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- 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 commissioner of health to establish a direct patient care ratio reporting and rebate requirement for nursing homes

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

1 Section 1. Section 206 of the public health law is amended by adding a
2 new subdivision 29 to read as follows:

3 29. (a) The commissioner shall establish a direct patient care ratio
4 reporting and rebate requirement, which shall take effect no later than
5 July first, two thousand twenty-one, pursuant to which nursing homes
6 shall be required to report to the commissioner total revenues
7 collected, along with the portion of revenues that are expended on
8 direct patient care, staff wages, other staff wages, taxes, administra-
9 tive costs, including but not limited to management agreement and staff-
10 ing agency contracts, investments in improvements to the structure and
11 equipment of the facility, real estate costs, capital expenses, profits,
12 and any other factors as the commissioner shall require.

13 (b) The direct patient care ratio shall require seventy percent or
14 such higher percentage as the commissioner may establish by regulation
15 of a facility's aggregate revenue in a fiscal year to be expended on the
16 direct care of residents. In addition, forty percent of the facility's
17 aggregate revenue, which shall be considered part of the direct care
18 costs, shall be expended on staff wages and benefits, and purchased and
19 contracted staffing services. For purposes of calculating purchased and
20 contracted staffing services, the total number used shall be discounted
21 at eighty-five percent of the contracted or purchased amount. The
22 commissioner shall determine which components of the reporting require-

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

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1 ments shall be attributable to the direct patient care ratio, but shall
2 not include administrative costs, profits, real estate costs, and capi-
3 tal expenses. The commissioner may adjust the components of the direct
4 patient care ratio as appropriate based on current financial information
5 reported by nursing homes and overall performance by the nursing home
6 related to patient safety, direct patient care staff ratios, and quality
7 of care.

8 (c) The commissioner, or an entity designated by the commissioner, may
9 conduct an audit of the financial information reported by a nursing home
10 pursuant to this section to ensure the accuracy of the information
11 reported and compliance with the requirements of this subdivision, as
12 well as to identify and recover any payments that exceed the allowed
13 cost ratio for administrative costs and profits established pursuant to
14 paragraph (b) of this subdivision. In each case where the direct patient
15 care ratio fails to substantially comply with the ratio requirement
16 established pursuant to this subdivision, the nursing home shall issue a
17 pro rata dividend or credit to the state and to all individuals and
18 entities making payments to the nursing home for resident services in an
19 amount sufficient to ensure that the aggregate amount paid for direct
20 patient care staff wages, other staff wages, taxes, administrative
21 costs, investments in improvements to the structure and equipment of the
22 facility, profits, and such other factors as the commissioner shall
23 require, plus the amount of the dividends and credits, equals the manda-
24 tory ratio for the previous calendar year. The pro rata dividend or
25 credit shall be equal to the percentage of payments made by the payor to
26 the nursing home out of all payments made to the nursing home for
27 services provided in the previous calendar year from all payment sourc-
28 es. All dividends and credits shall be distributed by June thirtieth of
29 the year following the calendar year in which the ratio requirements
30 were not satisfied.

31 § 2. This act shall take effect immediately.