STATE OF NEW YORK

6012

2021-2022 Regular Sessions

IN SENATE

March 26, 2021

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT relating to an audit of state agency response to COVID-19 in nursing homes, adult care facilities, and assisted living residences; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. 1. As used in this act, the following terms shall be defined as follows:

a. "Nursing home" shall have the same meaning as such term is defined in subdivision two of section twenty-eight hundred one of the public health law.

b. "Adult care facility" shall have the same meaning as defined in subdivision twenty-one of section two of the social services law.

c. "Assisted living residence" shall have the same meaning as defined in subdivision one of section forty-six hundred fifty-one of the public health law, as added by chapter 2 of the laws of 2004.

d. "Step-down facility" shall refer to a COVID-19 only nursing home, adult care facility, or assisted living residence established by the department of health, consistent with executive order 202.81 of 2020 to receive medically stable, but persistently positive COVID-19 nursing home, adult care facility, or assisted living residence eligible patients transferred from a facility licensed under article twenty-eight of the public health law until such time the patient tests negative for COVID-19, or is deemed medically safe for discharge by a qualified licensed health care professional under the education law.

e. "Direct care worker" shall mean any employee of a nursing home, adult care facility, or assisted living residence who is responsible for patient handling or patient assessment as a regular or incidental part

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

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of his or her employment, including any licensed or unlicensed health care worker.

2. The state comptroller shall conduct an audit of the department of health, as well as any other agency or the executive chamber as the comptroller deems necessary, with respect to such agency's performance, as well as compliance and enforcement of applicable state laws, rules, regulations, and directives or executive orders issued by the governor pursuant to section 29-a of the executive law, including any guidance or advisory issued by such agency with respect to its compliance with United States centers for Medicaid and medicare services and centers for disease control and prevention guidance and recommendations, with respect to mitigating the impact of COVID-19 in nursing homes, adult care facilities, and assisted living residences. Such audit shall include, but not be limited to, a review of:

a. state funding for nursing homes, adult care facilities, and assisted living residences, including but not limited to the adequacy of state Medicaid rates and additional state payments for supplemental security income benefits;

b. current requirements and enforcement of infection prevention and control policies, including those implemented in response to the COVID-19 state disaster emergency;

c. a regional analysis of the availability of qualified staff, with a focus on identifying geographical areas with shortages and how the state can increase the number of qualified direct care workers;

d. patient care and health outcomes in state run nursing homes, adult care facilities, and assisted living residences;

e. an accounting of resources following the outbreak of COVID-19, including, but not limited to, staff, personal protective equipment, testing capabilities and COVID-19 vaccines;

f. the efficacy of step-down facilities, including the number of individuals treated at such facilities, the locations of such facilities, where individuals were transferred from prior to entering such facility and discharged to upon leaving such facility, and the potential for growth;

g. the physical and mental health impact on residents of nursing homes, adult care facilities, and assisted living residences due to isolation and lack of visitation; and

h. compliance with the provisions of article six of the public officers law.

3. The comptroller may request proposals from independent auditors for the purpose of fulfilling the provisions of this section. The requests for proposals shall include a reference to the requirements for audits conducted pursuant to this section. Any independent auditor selected by the comptroller shall be selected in accordance with a competitive procedure including an evaluation, based on quality and price factors, of those proposals received in response to such requests for proposals.

4. Within one year of the effective date of this act, the comptroller shall publish the results of the audit required under subdivision two of this section publicly on the comptroller's website, along with a brief description of the results thereof, and shall submit a copy to the chairs and ranking minority members of the senate finance committee and the assembly ways and means committee.

§ 2. This act shall take effect immediately and expire and be deemed repealed January 15, 2023.