

# STATE OF NEW YORK

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6012

2021-2022 Regular Sessions

## IN SENATE

March 26, 2021

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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:

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

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

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

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

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

20 e. "Direct care worker" shall mean any employee of a nursing home,  
21 adult care facility, or assisted living residence who is responsible for  
22 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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1 of his or her employment, including any licensed or unlicensed health  
2 care worker.

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

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

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

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

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

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

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

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

38 h. compliance with the provisions of article six of the public offi-  
39 cers law.

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

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

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