STATE OF NEW YORK

1999--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. GOTTFRIED, WALLACE -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT directing the department of health to establish and implement an infection inspection audit and checklist on residential care facilities, nursing homes and long-term care facilities

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

Section 1. Definitions. For the purposes of this act, the following terms shall have the following meanings:

(a) "Department" means the department of health.

(b) "Facility" means a nursing home or residential health care facility as defined in article 28 of the public health law.

(c) "Nursing home" means a facility providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing, and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

(d) "Audit" means the infection control competency audit created by the department under this act.

(e) "Checklist" means the infection control competency audit checklist created by the department under this act.

§ 2. Establishing the infection control competency audit. (a) The department shall promulgate rules and regulations establishing an infection control competency audit for a facility consistent with the provisions of this act. The audit shall include a competency checklist which incorporates specific core competencies based on guidance set forth in this act.

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

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(b) The department shall commence audits of facilities on and after October 1, 2021 and such audits shall be conducted on an annual basis thereafter.

§ 3. Audit evaluation. (a) The infection control competency audit shall utilize a checklist to evaluate the competency of the facility being audited. Facilities subject to the infection control competency audit shall be required to fulfill the required criteria of a minimum of eighty-five percent of the audit checklist.

(b) If a facility meets at least eighty-five percent of the criteria within the checklist, the facility will be scored as "in adherence" with the infection control competency audit.

(c) If a facility meets between sixty percent and eighty-four percent of the required criteria within the checklist, the facility will be scored as "in adherence but warrants reinspection." Such facility will be subject to reinspection by the department at least once before the next annual inspection.

(d) If a facility meets less than sixty percent of the criteria within the checklist, the facility will be scored as "not in adherence".

§ 4. Facilities not in adherence with infection control competency audit. (a) The department shall establish a penalty framework for those facilities determined to be "not in adherence" with the inspection control checklist. A facility being found "not in adherence" may result in revocation or suspension of the facility's license; provided, however, that no such revocation shall be ordered unless the department has provided the facility with a fourteen day grace period, solely for a facility's first time being found "not in adherence", to meet at least eighty percent of the criteria within the checklist.

(b) Audits shall continue at monthly intervals for facilities that are found to be "not in adherence" by the established infection control competency checklist until such facilities meet at least eighty percent of the criteria within the checklist.

§ 5. Audit standards core competencies. The department shall establish an infection control competency audit and checklist for facilities which shall include, but not be limited to:

(a) Infection control. (i) The facility shall have an infection lead staff person to:

(A) address and improve infection control based on federal and state public health advisories and review and implement the facility's pandemic emergency plan as required by subdivision 12 of section 2803 of the public health law; and

(B) spend an adequate time at the facility focused on activities dedicated to infection control.

(ii) The facility shall have an infection control program with written policies and procedures which includes, but is not limited to:

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

(B) Written procedures to allow 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 facility.

(iii) During recognized periods of contagious or infectious disease outbreaks, the facility shall have screening requirements for every individual entering the facility, including staff, for symptoms associated with the infectious disease outbreak.

(iv) The facility shall establish dedicated distinct areas for residents confirmed or suspected to be infected with an infectious disease or are recovering from an infectious disease. Policies and procedures shall be developed to isolate residents suspected to be infected with an infectious disease in quarantine until their infection status can be determined.

(v) The facility 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 should be no rotation of staff between various areas of the facility during the period they are working each day during periods of recognized outbreaks.

(vi) The facility shall ensure ongoing access to the necessary supplies for hand hygiene for staff and residents.

(vii) The facility shall ensure ongoing access to federally registered hospital disinfectants or centers for disease control acceptable alternatives to allow for necessary and appropriate cleaning and disinfecting of high traffic surfaces and shared resident care equipment.

(b) Personal protective equipment. (i) The facility shall possess and maintain or contract to have at least a two month supply of all necessary items of personal protective equipment in line with the most recent department guidance and statutes.

(ii) The facility shall develop a contingency plan to address supply shortages of personal protective equipment.

(iii) The facility shall train staff and establish protocols for selecting, donning and doffing appropriate personal protective equipment and demonstrate competency during resident care. The facility must keep a record of this staff training.

(iv) The facility shall ensure availability of personal protective equipment throughout the facility and outside resident rooms when there are units with separate cohorted spaces for both positive and negative infectious disease residents.

(v) The facility shall require the use of recommended personal protective equipment for all front-line staff in line with the most recent department guidance.

(vi) The facility must designate a staff member who is present at every shift who is responsible for ensuring the proper use of personal protective equipment by all staff.

(c) Staffing. (i) The facility 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.

(ii) The facility shall have an employee responsible for conducting a daily assessment of staffing status and needs during an outbreak of infectious or contagious diseases.

(iii) The facility shall 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 positive, for an infectious disease. Such policies shall offer the maximum amount of flexibility to staff and be consistent with state guidance.

(d) Clinical care. (i) The facility shall shave infection control policies that outline the recommended transmission-based precautions that should be used when caring for residents with respiratory

infection. These policies shall accommodate for department and centers for disease control guidance on personal protective equipment conservation methods.

(ii) The facility shall ensure all health care professionals which enter the facility have been trained to recognize the signs and symptoms of infectious diseases.

(iii) The facility has written requirements for residents to be screened for symptoms and have their vital signs monitored, including oxygen saturation and temperature checks in accordance with the most recent state or federal guidance and and documented in the clinical record during a recognized outbreak of contagious or infectious diseases.

(iv) The facility shall ensure that residents with any suspected respiratory or infectious illnesses are assessed at a more frequent rate.

(e) Written communication plan. The facility shall have a written plan for daily communications with staff, residents, and the residents' families regarding the status of infections at the facility. Such plan shall be consistent with the requirements set forth in paragraph (a) of subdivision 12 of section 2803 of the public health law. The facility must designate a staff member who is responsible for these communications with staff, residents and residents' families.

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