STATE OF NEW YORK

9681

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. SIMPSON -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to safe staffing levels at nursing homes

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

Section 1. Subparagraph (iii) of paragraph (b) and paragraph (d) of subdivision 2 of section 2895-b of the public health law, as added by chapter 156 of the laws of 2021, are amended and a new subparagraph (iv) is added to paragraph (b) to read as follows:

(iii) the existence of [~~an acute~~] **a** labor supply shortage within a particular region. When determining if there is [~~an acute~~] **a** labor supply shortage within a specific region in a specific quarter, or a shorter period of time as determined by the commissioner, the commissioner shall take into consideration the following factors: **overall** regional labor supply**, regional labor supply** of available certified nurse aides, licensed practical nurses and registered nurses; regional pay rates for [~~the relevant titles~~] **certified nurse aides, licensed practical nurses and registered nurses employed in a nursing home within the particular county or any adjoining county relative to the facility** as determined by the federal department of labor, bureau of labor statistics; and evidence that the facility attempted to procure sufficient staffing.

(iv) The department shall not impose any penalties due to the existence of a labor supply shortage during the period of and for one year following any declared statewide disaster emergency pursuant to section twenty-eight of the executive law relating to healthcare staff shortages.

(d) In determining whether a nursing home has violated its obligations under this section, it shall not be a defense that such nursing home was unable to secure sufficient staff if the lack of staffing [~~was foreseeable and could be prudently planned for, or~~] involved routine staffing needs that arose due to typical staffing patterns, typical levels of absenteeism, or time off typically approved by the employer for vacation, holidays, sick leave, and personal leave.

§ 2. This act shall take effect immediately.

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

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