

# STATE OF NEW YORK

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4336

2021-2022 Regular Sessions

## IN SENATE

February 3, 2021

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

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, profits, and any other factors as the commis-  
12 sioner 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. The commissioner shall determine which compo-  
17 nents of the reporting requirements shall be attributable to the direct  
18 patient care ratio, but shall not include administrative costs and  
19 profits. The commissioner may adjust the components of the direct  
20 patient care ratio as appropriate based on current financial information  
21 reported by nursing homes and overall performance by the nursing home  
22 related to patient safety, direct patient care staff ratios, and quality  
23 of care.

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

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

24     § 2. This act shall take effect immediately.