

STATE OF NEW YORK

4336

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

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.