STATE OF NEW YORK

4336--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Section 206 of the public health law is amended by adding a new subdivision 29 to read as follows:

29. (a) The commissioner shall establish a direct patient care ratio reporting and rebate requirement, which shall take effect no later than July first, two thousand twenty-one, pursuant to which nursing homes shall be required to report to the commissioner total revenues collected, along with the portion of revenues that are expended on direct patient care, staff wages, other staff wages, taxes, administrative costs, including but not limited to management agreement and staffing agency contracts, investments in improvements to the structure and equipment of the facility, real estate costs, capital expenses, profits, and any other factors as the commissioner shall require.

(b) The direct patient care ratio shall require seventy percent or such higher percentage as the commissioner may establish by regulation of a facility's aggregate revenue in a fiscal year to be expended on the direct care of residents. In addition, forty percent of the facility's aggregate revenue, which shall be considered part of the direct care costs, shall be expended on staff wages and benefits, and purchased and contracted staffing services. For purposes of calculating purchased and contracted staffing services, the total number used shall be discounted at eighty-five percent of the contracted or purchased amount. The commissioner shall determine which components of the reporting require-

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

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ments shall be attributable to the direct patient care ratio, but shall not include administrative costs, profits, real estate costs, and capital expenses. The commissioner may adjust the components of the direct patient care ratio as appropriate based on current financial information reported by nursing homes and overall performance by the nursing home related to patient safety, direct patient care staff ratios, and quality of care.

(c) The commissioner, or an entity designated by the commissioner, may conduct an audit of the financial information reported by a nursing home pursuant to this section to ensure the accuracy of the information reported and compliance with the requirements of this subdivision, as well as to identify and recover any payments that exceed the allowed cost ratio for administrative costs and profits established pursuant to paragraph (b) of this subdivision. In each case where the direct patient care ratio fails to substantially comply with the ratio requirement established pursuant to this subdivision, the nursing home shall issue a pro rata dividend or credit to the state and to all individuals and entities making payments to the nursing home for resident services in an amount sufficient to ensure that the aggregate amount paid for direct patient care staff wages, other staff wages, taxes, administrative costs, investments in improvements to the structure and equipment of the facility, profits, and such other factors as the commissioner shall require, plus the amount of the dividends and credits, equals the mandatory ratio for the previous calendar year. The pro rata dividend or credit shall be equal to the percentage of payments made by the payor to the nursing home out of all payments made to the nursing home for services provided in the previous calendar year from all payment sources. All dividends and credits shall be distributed by June thirtieth of the year following the calendar year in which the ratio requirements were not satisfied.

§ 2. This act shall take effect immediately.