

# STATE OF NEW YORK

7726

## IN SENATE

January 7, 2022

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

AN ACT to amend the public health law, in relation to directing the department of health to establish and implement an infection inspection audit and checklist on nursing homes

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

1 Section 1. Subdivisions 1 and 2 and the opening paragraph and subpar-  
2 agraphs (iv) and (vii) of paragraph (a) of subdivision 3 of section  
3 2803-aa of the public health law, as added by a chapter of the laws of  
4 2021 amending the public health law relating to directing the department  
5 of health to establish and implement an infection inspection control  
6 audit and checklist on nursing homes, as proposed in legislative bills  
7 numbers S. 1783-A and A. 6057-A, are amended to read as follows:

8 1. The commissioner shall establish in the department a program for  
9 audits of nursing homes to measure specific core competencies relating  
10 to infection control of each nursing home. The audits shall commence on  
11 ~~[October]~~ December 1, ~~[2021]~~ 2022, and shall be conducted annually there-  
12 after.

13 2. (a) The audit shall utilize a checklist that is consistent with  
14 focused infection control survey standards issued by the federal centers  
15 for Medicare and Medicaid services to evaluate infection control compe-  
16 tency of each nursing home.

17 (b) A nursing home ~~[meeting at least eighty-five percent of the crite-~~  
18 ~~ria on the checklist shall]~~ must meet all metrics on the checklist  
19 developed pursuant to paragraph (a) of this subdivision to be scored as  
20 ~~["proficient"]~~ in compliance with infection control ~~[competency]~~.

21 (c) If a nursing home ~~[meets between sixty percent and eighty-four~~  
22 ~~percent of the required criteria within the checklist, the nursing home~~  
23 ~~will be scored as "proficiency pending reinspection." Such nursing home~~  
24 ~~will be audited by the department at least once before the next annual~~  
25 ~~inspection]~~ fails to meet all metrics on the checklist developed pursu-  
26 ant to paragraph (a) of this subdivision, the department shall conduct  
27 another infection control audit within ninety days of the initial deter-

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

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mination. The department shall continue to conduct such ninety day audits until the nursing home is scored as in compliance with infection control competency. The department may also pursue administrative penalties, including but not limited to citation for violation of infection control standards and imposing civil monetary penalties pursuant to section twelve of this chapter.

~~[(d) A nursing home that meets less than sixty percent of the criteria within the checklist, or fails a proficiency pending reinspection, shall be scored as "not proficient".~~

~~Facilities scored as "not proficient" shall continue to be audited at monthly intervals until such facilities meet at least eighty five percent of the criteria within the checklist.]~~

An audit of core competencies shall include, but not be limited to, the following, and shall be consistent with ~~[applicable federal, state and local guidelines and requirements]~~ focused infection control survey standards issued by the federal centers for Medicare and Medicaid services:

(iv) The nursing home shall have a staffing and cohorting plan to limit transmission ~~[that shall]~~ , which is based on national (for example, centers of disease control and centers for Medicare and Medicaid services), state or local public health authority recommendations. Such staffing and cohorting plan may include, but not be limited to:

(A) ~~[Dedicated]~~ Having 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 shall be no rotation of staff]~~ and not rotating staff between various areas of the facility during the period they are working each day during periods of recognized outbreaks; and

(C) Having a dedicated space in the facility for cohorting and managing care for residents with an infectious disease, such as COVID-19.

(vii) The nursing home must designate a staff member ~~[for every shift]~~ or members who is responsible for ensuring the proper use of personal protective equipment by all staff.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the public health law relating to directing the department of health to establish and implement an infection inspection audit and checklist on nursing homes, as proposed in legislative bills numbers S. 1783-A and A. 6057-A, takes effect.