

# STATE OF NEW YORK

10189

## IN ASSEMBLY

May 10, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gunther) --  
read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing an  
advanced residential health care for aging adults with medical fragil-  
ity demonstration program

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

1 Section 1. The public health law is amended by adding a new section  
2 2808-f to read as follows:

3 § 2808-f. Advanced residential health care for aging adults medical  
4 fragility demonstration program. 1. Notwithstanding any law, rule, or  
5 regulation to the contrary, the commissioner shall, within amounts  
6 appropriated and subject to the availability of federal financial  
7 participation, establish a demonstration program for eligible adult  
8 residential health care facilities, as defined in paragraph (c) of  
9 subdivision two of this section, to construct a new facility or repur-  
10 pose part of an existing facility to operate as an adult residential  
11 health care facility for the purpose of improving the quality of care  
12 for aging adults with medical fragility.

13 2. For purposes of this section:

14 (a) "Aging adults with medical fragility" shall mean adults from age  
15 thirty-five to end of life who have a chronic debilitating condition or  
16 conditions, are at risk of hospitalization, are technology-dependent for  
17 life or health sustaining functions, require complex medication regimens  
18 or medical interventions to maintain or to improve their health status,  
19 and/or are in need of ongoing assessment or intervention to prevent  
20 serious deterioration of their health status or medical complications  
21 that place their life, health or development at risk.

22 (b) "Adult residential health care facility" shall mean a residential  
23 health care facility or discrete unit of a residential health care  
24 facility providing services to adults over the age of thirty-five.

25 (c) "Eligible adult residential health care facilities" shall mean  
26 adult health care facilities that meet the following eligibility crite-  
27 ria for the demonstration program set forth in subdivision one of this

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

LBD15463-01-4

1 section: (i) has over one hundred ten adult beds licensed under article  
2 sixteen of this chapter; or (ii) is currently licensed for adult beds  
3 pursuant to article sixteen of this chapter, is licensed to provide  
4 diagnostic and treatment services pursuant to this article, and quali-  
5 fies for funds pursuant to a vital access provider assurance program or  
6 a value based payment incentive program, as administered by the depart-  
7 ment in accordance with all requirements set forth in the state's feder-  
8 al 1115 Medicaid waiver standard terms and conditions.

9 3. Upon receipt of a certificate of need application from an eligible  
10 adult residential health care facility selected by the commissioner for  
11 the demonstration program authorized under this section, the commis-  
12 sioner is authorized to approve, with the written approval of the public  
13 health and health planning council pursuant to section twenty-eight  
14 hundred two of this article, the construction of a new residential  
15 health care facility to be constructed and operated on a parcel of land  
16 within the same county as that of an eligible adult residential health  
17 care facility that is proposing such new facility and over which it will  
18 have site control, or the repurposing of a portion of a residential  
19 health care facility that is currently serving geriatric residents or  
20 those with similar needs for the provision of nursing, medical, psycho-  
21 logical and counseling support services appropriate to the needs of  
22 nursing home-eligible adults with medical fragility, referred to herein  
23 below as an aging adult facility, provided that the established operator  
24 of such eligible adult residential health care facility proposing the  
25 aging adult facility is in good standing and possesses at least forty  
26 years' prior experience operating as an adult residential health care  
27 facility in the state or more than forty years' experience serving  
28 medically fragile adult patients, and provided further that such facili-  
29 ty qualifies for the demonstration program set forth in subdivision one  
30 of this section.

31 4. An aging adult facility established pursuant to subdivision three  
32 of this section may admit, from the community-at-large or upon referral  
33 from an unrelated facility, aging adults with medical fragility who,  
34 prior to reaching age thirty-five, were young adults with medical  
35 fragility, and who are eligible for nursing home care and in need of  
36 extensive nursing, medical, psychological and counseling support  
37 services, provided that the aging adult facility, to promote continuity  
38 of care, undertakes to provide priority admission to aging adults with  
39 medical fragility transitioning from the pediatric residential health  
40 care facility or unit operated by the entity that proposed the aging  
41 adult facility and ensure sufficient capacity to admit such adults as  
42 they attain thirty-five years of age.

43 5. (a) For inpatient services provided to any aging adults with  
44 medical fragility eligible for medical assistance pursuant to title  
45 eleven of article five of the social services law residing at any eligi-  
46 ble residential health care facility as authorized in subdivision three  
47 of this section, the commissioner shall establish the operating compo-  
48 nent of rates of reimbursement appropriate for aging adults with medical  
49 fragility residing at an adult residential health care facility, to  
50 apply to such adults thirty-five years of age or older. Such methodology  
51 shall take into account the methodology used to establish the operating  
52 component of the rates pursuant to section twenty-eight hundred eight of  
53 this article for adult residential health care facilities with an  
54 increase or decrease adjustment as appropriate to account for any  
55 discrete expenses associated with caring for aging adults with medical

1 fragility, including addressing their distinct needs as aging adults for  
2 medical and psychological support services.

3 (b) For inpatient services provided to any aging adults with medical  
4 fragility eligible for medical assistance pursuant to title eleven of  
5 article five of the social services law at any young adult facility as  
6 authorized in section twenty-eight hundred eight-e of this article, the  
7 commissioner shall establish the operating component of rates of  
8 reimbursement appropriate for adults with medical fragility. Such meth-  
9 odology shall take into account the methodology used to establish the  
10 operating component of the rates pursuant to section twenty-eight  
11 hundred eight of this article for young adult residential health care  
12 facilities with an increase or decrease adjustment as appropriate to  
13 account for any discrete expenses associated with caring for aging  
14 adults with medical fragility, including addressing their distinct needs  
15 as aging adults for medical and psychological services.

16 6. The commissioner shall have authority to waive any rule or regu-  
17 lation to effectuate the demonstration program authorized pursuant to  
18 subdivision one of this section.

19 § 2. This act shall take effect immediately.