# STATE OF NEW YORK

3006

2023-2024 Regular Sessions

# IN SENATE

January 26, 2023

Introduced by Sen. CLEARE -- 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 creating a nursing home resident quality and safety study; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The public health law is amended by adding a new section 2804-b to read as follows:

**§ 2804-b. Nursing home resident quality and safety study. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:**

**(a) "Frailty index" means a globally recognized methodology used to measure the health status of elderly individuals.**

**(b) "Frailty score" means a score given to an individual analyzed using the frailty index.**

**(c) "The study" means the nursing home resident quality and safety study conducted pursuant to this section.**

**(d) "Minimum data set" means a federally mandated process for clinical assessment of all residents in Medicare or Medicaid certified nursing homes.**

**(e) "The demonstration team" means a private business appointed by the commissioner that has the resources and technology available to collect minimum data set data for all nursing homes in New York state for analysis, and to perform all tasks necessary for the completion of the study.**

**(f) "Nursing home" or "facility" means a nursing home as defined by section twenty-eight hundred one of this article.**

**(g) "Applicant" means a nursing home that has submitted an application to participate in the study.**

**(h) "Participating facility" means an applicant that has been approved be the commissioner to participate in the study.**

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

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(i) "Control group" means the group of participating facilities acting as a control during the study by not implementing the use of frailty index methodology.

(j) "Intervention group" means the group of participating facilities implementing the use of frailty index methodology.

(k) "Residential health care facility quality incentive payment program" means the program established pursuant to section twenty-eight hundred one-f of this article.

2. Nursing home resident quality and safety study established. The commissioner shall undertake a study on the adoption of the frailty index methodology to improve the quality of care in nursing homes, achieve better outcomes for nursing home residents, and help New York state more appropriately direct payments to providers based on quality performance, pursuant to this section.

3. Application and acceptance for participation. (a) The commissioner shall make available a method for nursing homes to apply for participation in the study. The study shall receive such applicants on a first-come first-serve basis.

(b) The commissioner shall accept an equal number of nursing home applicants for participation in the study from each department region.

(c) Applicants accepted for participation in the study shall, at the time of submission of an application, have an occupancy rate of seventy percent or greater.

(d) At least twenty percent of applicants accepted for participation in the study shall be a non-profit or public facility.

4. Categorization of data. Data from participating facilities shall be categorized as follows:

(a) Facilities having:

(i) three hundred beds or more;

(ii) one hundred to two hundred ninety-nine beds; and

(iii) ninety-nine beds or fewer;

(b) Facilities operating:

(i) as part of a hospital; and

(ii) independently from a hospital; and

(c) Facilities having a rating of:

(i) one to two stars; and

(ii) three to five stars.

5. Control and intervention groups. Participating facilities shall be divided evenly into a control group and an intervention group. Participating facilities in the control group shall make no changes, other than reporting data as directed by the commissioner. Participating facilities in the intervention group shall implement frailty index methodology pursuant to this section.

6. Demonstration team. (a) The commissioner shall contract with a demonstration team, to perform all tasks necessary for the completion of the study, under the direction of the commissioner. The demonstration team shall:

(i) Train and provide certification in the frailty index methodology to staff in the intervention group, including but not limited to nurses' aides, nurses, physicians, therapists, dietary staff, recreation, social workers, managers, and administrative leaders;

(ii) Collect minimum data set data for all participating facilities, and collect frailty score data from facilities in the intervention group;

(iii) Collect performance data on New York state quality measures included in the residential health care facility quality incentive payment program for all participating facilities; and

(iv) Track nursing home resident information for all participating facilities including hospital transfers and readmissions, polypharmacy use, falls, pain, pressure ulcers, and other information as directed by the commissioner.

(b) The commissioner shall be authorized to pay reasonable compensation to the demonstration team within the limits provided by appropriation.

7. Frailty index methodology training. (a) Staff certified and trained in the frailty index methodology pursuant to subparagraph (i) of paragraph (a) of subdivision six of this section shall be authorized to train staff in nursing homes throughout the state in the frailty index methodology after the completion of the study.

(b) Such training shall be conducted during off-hours, and participating facilities shall cover the cost for such training. Such participating facilities shall be reimbursed by the state for training expenses upon the completion of the study.

(c) All participating facilities that complete the study shall receive a twenty-five percent discount from the state that shall be applied to frailty index methodology training of future employees.

8. Timeline of the study. The study shall follow the following timeline:

(a) Upon the effective date of this section, the commissioner shall begin accepting applications from nursing homes applying to participate in a study pursuant to subdivision three of this section;

(b) On or before the thirtieth day after the effective date of this section, the commissioner shall have selected all participating facilities from applicants pursuant to subdivision three of this section, and shall have appointed a demonstration team pursuant to subdivision six of this section;

(c) Beginning the sixtieth day after the effective date of this section, the demonstration team shall begin collecting minimum data set data from participating facilities from the prior year to establish a baseline performance for participating facilities;

(d) On or before the one hundred twentieth day after the effective date of this section, the demonstration team shall complete the frailty index methodology training pursuant to subdivision seven of this section;

(e) Beginning on the one hundred twentieth day after the effective date of this section, participating facilities in the intervention group shall begin implementing the frailty index methodology;

(f) Upon the fourteenth month after the effective date of this section, the demonstration team shall issue a report on the year-one results of the study to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the senate and assembly health and aging committees;

(g) The study shall end upon the eighteenth month after the effective date of this section; and

(h) Upon the twenty-first month after the effective date of this section, the demonstration team shall issue a final report including the findings of the study and recommendations for future legislative, program, provider, and other stakeholder actions to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the senate and assembly health and aging committees.

**9. Use of funds. The commissioner shall be authorized to use funds received from the federal civil money penalty reinvestment program for the purposes of this section.**

§ 2. This act shall take effect September 1, 2023, and shall expire and be deemed repealed 2 years after such date.