STATE OF NEW YORK

9599--A

IN SENATE

May 16, 2024

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 equity withdrawals by non-public residential health care facilities; and to amend the state finance law, in relation to establishing the nursing home worker recruitment and safety fund

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

Section 1. Paragraphs (b) and (c) of subdivision 5 of section 2808 of the public health law, as amended by section 36 of part B of chapter 109 of the laws of 2010, are amended to read as follows:

(b) On and after April first, two thousand ten, no non-public residential health care facility may withdraw equity or transfer assets which in the aggregate exceed**:**

(i) three percent of such facility's total reported annual revenue for patient care services, based on the facility's most recently available reported data, without prior written notification to the commissioner**; or**

(ii) in the case of a residential health care facility which, over the two immediately preceding successive quarters, has been compliant with the minimum staffing level requirements prescribed by section twenty-eight hundred ninety-five-b of this chapter, five percent of such facility's total reported annual revenue for patient care services, based on the facility's most recently available reported data, without prior written notification to the commissioner. Notification shall be made in a form acceptable to the department by certified or registered mail.

(c) Notwithstanding any inconsistent provision of this subdivision, on and after April first, two thousand ten, no non-public residential health care facility, whether operated as a for-profit facility or as a not-for-profit facility, may withdraw equity or transfer assets which in the aggregate exceed**:**

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

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(i) three percent of such facility's total reported annual revenue for patient care services, based on the facility's most recently available reported data, without the prior written approval of the commissioner; or

(ii) in the case of a residential health care facility which, over the two immediately preceding successive quarters, has been compliant with the minimum staffing level requirements prescribed by section twenty-eight hundred ninety-five-b of this chapter, five percent of such facility's total reported annual revenue for patient care services, based on the facility's most recently available reported data, without prior written notification to the commissioner. The commissioner shall make a determination to approve or disapprove a request for withdrawal of equity or assets under this subdivision within sixty days of the date of the receipt of a written request from the facility. Requests shall be made in a form acceptable to the department by certified or registered mail. In reviewing such requests the commissioner shall consider the facility's overall financial condition, any indications of financial distress, whether the facility is delinquent in any payment owed to the department, whether the facility has been cited for immediate jeopardy or substandard quality of care, and such other factors as the commissioner deems appropriate. In addition to any other remedy or penalty available under this chapter, and after opportunity for a hearing, the commissioner may require replacement of the withdrawn equity or assets and may impose a penalty for violation of the provisions of this subdivision in an amount not to exceed ten percent of any amount withdrawn without prior approval.

§ 2. Section 2895-b of the public health law is amended by adding a new subdivision 5 to read as follows:

5. Fines and civil penalties. (a) All fines and civil penalties collected by the commissioner pursuant to this section shall be deposited into a nursing home worker recruitment and safety fund established pursuant to section ninety-nine-ss of the state finance law to enhance the quality of employment for residential health care facility employees and assist in the recruitment and safety of residential health care facility staff.

(b) The commissioner shall distribute monies made available for this purpose under this subdivision in the form of grants to providers. In determining the funding for providers, the commissioner shall consider criteria including, but not limited to, the overall census of a facility and the rate region the facility is located within. The commissioner shall promulgate the rules and regulations necessary for implementing the program.

§ 3. The state finance law is amended by adding a new section 99-ss to read as follows:

§ 99-ss. Nursing home worker recruitment and safety fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the comptroller, a special fund to be known as the "nursing home worker recruitment and safety fund".

2. Money allocated to the nursing home worker recruitment and safety fund shall be kept separate and shall not be commingled with any other funds in the custody of the state comptroller.

3. Such fund shall consist of all fines and civil penalties received by the department of health, pursuant to the provisions of section twenty-eight hundred ninety-five-b of the public health law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained in this section shall

prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law. Any interest received by the comptroller on moneys on deposit in such fund shall be retained in and become part of such fund.

4. Moneys in such fund shall be expended only to provide grants to enhance the quality of employment for residential health care facility employees and assist in the recruitment and safety of residential health care facility staff.

5. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved or certified by the commissioner of health, or by an officer or employee of the department of health designated by the commissioner.

§ 4. This act shall take effect immediately.