

# STATE OF NEW YORK

10262--A

## IN ASSEMBLY

May 15, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) --  
read once and referred 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 Assem-  
bly, do enact as follows:

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

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

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

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

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

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

LBD15278-03-4

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

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

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

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

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

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

45 § 99-ss. Nursing home worker recruitment and safety fund. 1. There is  
46 hereby established in the joint custody of the commissioner of taxation  
47 and finance and the comptroller, a special fund to be known as the  
48 "nursing home worker recruitment and safety fund".

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

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

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

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

10 5. Moneys shall be payable from the fund on the audit and warrant of  
11 the comptroller on vouchers approved or certified by the commissioner of  
12 health, or by an officer or employee of the department of health desig-  
13 nated by the commissioner.

14 § 4. This act shall take effect immediately.