STATE OF NEW YORK

3029

2023-2024 Regular Sessions

IN SENATE

January 26, 2023

Introduced by Sen. STEC -- 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 safe staffing levels at nursing homes

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

Section 1. Subparagraph (iii) of paragraph (b) and paragraph (d) of subdivision 2 of section 2895-b of the public health law, as added by chapter 156 of the laws of 2021, are amended and a new subparagraph (iv) is added to paragraph (b) to read as follows:

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(iii) the existence of [an acute] a labor supply shortage within a particular region. When determining if there is [an acute] a labor supply shortage within a specific region in a specific quarter, or a shorter period of time as determined by the commissioner, the commissioner shall take into consideration the following factors: overall regional labor supply, regional labor supply of available certified 11 nurse aides, licensed practical nurses and registered nurses; regional 12 pay rates for [the relevant titles] certified nurse aides, licensed practical nurses and registered nurses employed in a nursing home within 14 the particular county or any adjoining county relative to the facility 15 as determined by the federal department of labor, bureau of labor 16 statistics; and evidence that the facility attempted to procure sufficient staffing.

(iv) The department shall not impose any penalties due to the existence of a labor supply shortage during the period of and for one year 19 20 following any declared statewide disaster emergency pursuant to section 21 twenty-eight of the executive law relating to healthcare staff short-22 **ages.**

23 (d) In determining whether a nursing home has violated its obligations 24 under this section, it shall not be a defense that such nursing home was 2.5 unable to secure sufficient staff if the lack of staffing [was foreseea-

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

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1 ble and sould be prudently planned for, or] involved routine staffing

- 2 needs that arose due to typical staffing patterns, typical levels of
- 3 absenteeism, or time off typically approved by the employer for vaca-4 tion, holidays, sick leave, and personal leave.
- 5 § 2. This act shall take effect immediately.