

# STATE OF NEW YORK

9599

## 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

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:

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:

24 (i) three percent of such facility's total reported annual revenue for  
25 patient care services, based on the facility's most recently available

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

LBD15278-01-4

1 reported data, without the prior written approval of the commissioner;  
2 or

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21 er may require replacement of the withdrawn equity or assets and may  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23 an amount not to exceed ten percent of any amount withdrawn without  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

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

27 5. Fines and civil penalties. All fines and civil penalties collected  
28 by the commissioner pursuant to this section shall be deposited into a  
29 nursing home worker recruitment and safety fund established pursuant to  
30 section ninety-nine-ss of the state finance law which shall be allocated  
31 by the commissioner in a manner which is designed to enhance the quality  
32 of employment for residential health care facility employees and assist  
33 in the recruitment and safety of residential health care facility staff.

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

36 § 99-ss. Nursing home worker recruitment and safety fund. 1. There is  
37 hereby established in the joint custody of the commissioner of taxation  
38 and finance and the comptroller, a special fund to be known as the  
39 "nursing home worker recruitment and safety fund".

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

43 3. Such fund shall consist of all fines and civil penalties received  
44 by the department of health, pursuant to the provisions of section twen-  
45 ty-eight hundred ninety-five-b of the public health law and all other  
46 moneys appropriated, credited, or transferred thereto from any other  
47 fund or source pursuant to law. Nothing contained in this section shall  
48 prevent the state from receiving grants, gifts or bequests for the  
49 purposes of the fund as defined in this section and depositing them into  
50 the fund according to law. Any interest received by the comptroller on  
51 moneys on deposit in such fund shall be retained in and become part of  
52 such fund.

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

1 5. Moneys shall be payable from the fund on the audit and warrant of  
2 the comptroller on vouchers approved or certified by the commissioner of  
3 health, or by an officer or employee of the department of health desig-  
4 nated by the commissioner.

5 § 4. This act shall take effect immediately.