# STATE OF NEW YORK

5767

2025-2026 Regular Sessions

# IN SENATE

February 28, 2025

Introduced by Sen. SCARCELLA-SPANTON -- 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 respiratory therapy demonstration program for residential health care facilities

**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 2832 to read as follows:

**§ 2832. Residential health care facilities; respiratory therapy demonstration program. 1. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to approve up to ten residential health care facilities within the state to operate respiratory therapy units by and within such residential health care facilities. For purposes of this section, "respiratory therapy" shall mean the assessment, treatment, monitoring and therapeutic interventions and restorations of patients with deficiencies or abnormalities of cardiopulmonary function and training with education to return to the community.**

**2. Respiratory therapy services shall include:**

**(a) Application of techniques for support of high-flow and low-flow oxygenation, mechanical ventilation, therapeutic pulmonary and cardiac rehabilitation and interdisciplinary interventions to assist in the restoration of the patient's overall wellness to support and promote healthy breathing, in the short and long-term;**

**(b) Pulmonary rehabilitation techniques and therapeutic interventions for those suffering from chronic obstructive pulmonary disease (COPD), and/or recovering from lung surgery, asthma attacks, bronchitis, and pneumonia to improve their breathing for a better quality of life during a skilled nursing facility stay;**

**(c) Self-management education and interventions for people with chronic obstructive pulmonary disease (COPD), and/or recovering from lung**

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

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surgery, asthma attacks, bronchitis, and pneumonia to assist patients return to community and to thrive at home and reduce the need for future hospitalizations; and

(d) Pulmonary rehabilitation techniques and overall wellness education and training to develop strength and endurance of supporting respiratory muscles and other techniques to increase respiratory function, which will improve the success of ventilator-weaning, reduce mortality rates, and hasten the return of eligible candidates to better positive outcomes.

3. In order to receive approval from the commissioner to operate a respiratory therapy unit and to provide respiratory therapy, a residential health care facility shall file an application on forms prescribed by or acceptable to the commissioner.

(a) The commissioner shall act upon such applications in a manner consistent with section twenty-eight hundred two of this article. In the public health and health planning council's evaluation of applications and the commissioner acting upon such applications, priority shall be given to applicants who can demonstrate a history of providing such respiratory therapy over the past ten years.

(b) In order to be approved to operate a respiratory therapy unit and to provide respiratory therapy, an applicant must comply with and meet all applicable requirements of and conditions of participation under title XVIII of the federal Social Security Act (Medicare).

(c) The commissioner shall establish the operating component of reimbursement rates appropriate for patients requiring respiratory therapy in a respiratory therapy unit, which shall include:

(i) Funding for minimum staffing appropriate to meet the standards and needs of each level of nursing care, including but not limited to, suctioning, transferring from bed daily, whirlpool bathing and transport to therapy gym;

(ii) Minimum staffing for therapeutic interventions, including therapeutic recreation, physical, occupational and speech therapies, and adequate staff to transport residents; and

(iii) Appropriate equipment and supplies necessary to provide respiratory care and education, including portable mechanical ventilators, oxygen, in-wall and portable, appropriate speaking valves, and appropriate high protein and high caloric nutrition.

4. The commissioner shall report to the governor and the legislature concerning the implementation of this section and the operation of respiratory therapy units within three years after the effective date of this section. Such report shall include a recommendation regarding the expansion of the demonstration program and other metrics to define the need for and cost of services for the population of individuals requiring respiratory therapy, as determined by the commissioner.

§ 2. This act shall take effect immediately.