*** § 2803-aa. Nursing home infection control competency audit.** 1. The commissioner shall establish in the department a program for audits of nursing homes to measure specific core competencies relating to infection control of each nursing home. The audits shall commence on December 1, 2022, and shall be conducted annually thereafter.

2. (a) The audit shall utilize a checklist that is consistent with focused infection control survey standards issued by the federal centers for Medicare and Medicaid services to evaluate infection control competency of each nursing home.

(b) A nursing home must meet all metrics on the checklist developed pursuant to paragraph (a) of this subdivision to be scored as in compliance with infection control.

(c) If a nursing home fails to meet all metrics on the checklist developed pursuant to paragraph (a) of this subdivision, the department shall conduct another infection control audit within ninety days of the initial determination. The department shall continue to conduct such ninety day audits until the nursing home is scored as in compliance with infection control competency. The department may also pursue administrative penalties, including but not limited to citation for violation of infection control standards and imposing civil monetary penalties pursuant to section twelve of this chapter.

3. An audit of core competencies shall include, but not be limited to, the following, and shall be consistent with focused infection control survey standards issued by the federal centers for Medicare and Medicaid services:

(a) Infection control. (i) The nursing home shall assign an infection lead staff person to implement infection control based on federal and state public health advisories, guidelines and rules.

(ii) The nursing home shall have a written infection control program which includes, but is not limited to:

(A) A plan to investigate, control and take action to prevent infections in the nursing home;

(B) Procedures for isolation and universal precautions for residents suspected or confirmed to have a contagious or infectious disease; and

(C) A record of incidences and corrective actions related to

infections at the nursing home.

(iii) During an officially declared national emergency, or state or municipal emergency declared pursuant to article two-B of the executive law, related to a contagious or infectious disease outbreak, the nursing home shall have screening requirements for every individual entering the facility, including staff, for symptoms associated with the infectious disease outbreak.

(iv) The nursing home shall have a staffing and cohorting plan to limit transmission, which is based on national (for example, centers of disease control and centers for Medicare and Medicaid services), state or local public health authority recommendations. Such staffing and cohorting plan may include, but not be limited to:

(A) Having dedicated, consistent staffing teams who directly interact with residents that are confirmed or suspected to be infected with a contagious or infectious disease;

(B) Limiting clinical and other staff who have direct resident contact to specific areas of the facility and not rotating staff between various areas of the facility during the period they are working each day during periods of recognized outbreaks; and

(C) Having a dedicated space in the facility for cohorting and managing care for residents with an infectious disease, such as COVID-19.

(v) The nursing home shall ensure ongoing access to the necessary supplies for hand hygiene for staff and residents, hospital disinfectants or alternatives to allow for necessary and appropriate cleaning and disinfecting of surfaces and shared resident care equipment.

(vi) The nursing home shall train staff and establish protocols for selecting, donning and doffing appropriate personal protective equipment and demonstrate competency during resident care. The nursing home must keep a record of staff training in proper storage, use, reuse, and disposal of personal protective equipment.

(vii) The nursing home must designate a staff member or members who is responsible for ensuring the proper use of personal protective equipment by all staff.

(b) The nursing home shall demonstrate that there has been advanced planning, in alignment with the facility's emergency preparedness plans

and pandemic emergency plan, for contingent staffing needs in the case of staff quarantines that shall have an employee responsible for conducting a daily assessment of staffing status and needs during an outbreak of infectious or contagious diseases, and institute a sick-leave policy that does not punish staff with disciplinary action if they are absent from work because they are exhibiting symptoms, or test positive, for an infectious disease. Such policies shall offer the maximum amount of flexibility to staff and be consistent with state guidance.

(c) The nursing home shall have a written plan for daily communications with staff, residents, and the residents' families regarding the status of infections at the nursing home. Such plan shall be consistent with the requirements set forth in paragraph (a) of subdivision twelve of section twenty-eight hundred three of this article. The nursing home must designate one or more staff members who are responsible for these communications with staff, residents and residents' families.

* NB There are 2 § 2803-aa's