

New State Statutory Requirements in Effect and Coming Soon for Nursing Homes

LeadingAge New York has created this reference tool to assist nursing home members to comply with the many statutory requirements enacted in New York in 2021. Please note that this tool is up-to-date as of December 14, 2021 and that bills are still pending for action by the Governor.

Chapter of 2021	Requirements	Effective Date	Regulations	LANY article/summary
89	Personal/Compassionate Caregiving			
	<ul style="list-style-type: none"> • Requires nursing homes and ACFs to collect resident designations of personal caregiving and compassionate caregiving visitors from residents and to allow these visitors broader access to visitation. 	5/13/2021	Emergency regulation. Available here .	Available here .
80 , 138	Resident Transfer and Discharge Requirements			
	<ul style="list-style-type: none"> • No transfer or discharge unless necessary for resident's or other residents' health, safety, welfare, facility ceases operation, or resident has failed to pay for stay. • Use best efforts to secure appropriate placement other than temporary housing assistance. • Notice and written consent requirements for discharge to another person's home. • 30-day notice to resident, representative and Ombudsman prior to facility-initiated discharge/transfer, or as soon as practicable, when transferred or discharged because cannot be cared for safely or is danger to others. • May transfer or discharge if facility is unable to meet resident needs or resident doesn't need nursing home care. • Notice to representative and/or family when transfer or discharge is initiated by resident, unless resident requests no notice. • Document reason the resident is seeking transfer or discharge when resident-initiated. 	6/17/2021		Available here .

Chapter of 2021	Requirements	Effective Date	Regulations	LANY article/summary
102 , 141	Establishment/Change in Control: Notice and Character & Competence Standards			
	<ul style="list-style-type: none"> • Requires notice to residents, staff and union representative regarding CON applications proposing changes in ownership. • Clarifies and expands character and competence standards for nursing home applicants. • Prohibits approval when more than 40% of homes in an applicant individual's portfolio has a 2-star rating or lower, and individual has held an interest for 48 months or more. 	10/24/21	Proposed regulation. Available here .	LANY summary available here and summary of regulations here . Hinman summary available here .
102	Retention of Employees			
	<ul style="list-style-type: none"> • New owners/operators must retain all employees for 60 days (except for cause and except for Admin, DONs, controlling persons.) 	10/24/21		Available here .
102 , 141	Disclosure and Notice of Related Entity Agreements			
	<p>Adds to prior requirement to notify DOH of any common or familial ownership of any entity providing services to facility or operator, by requiring:</p> <ul style="list-style-type: none"> • Disclose related-entity providing services in residency agreements or addendums; • 90-day notice to DOH, prior to entering into service agreement with related entity; • Notice to residents, staff, union prior to entering into service agreement with related entity. • Attest annually on DOH form to accuracy of information provided to DOH.* 	10/24/21		Hinman summary available here .
102 , 141	Notice of Sale, Mortgage, Consulting, Staffing, Management Agreements			
	<p>Notify DOH and Ombudsman 90 days prior to execution of letter of intent or agreement for:</p> <ul style="list-style-type: none"> • sale, mortgage of real property of facility; 	10/24/21		Hinman summary available here .

Chapter of 2021	Requirements	Effective Date	Regulations	LANY article/summary
	<ul style="list-style-type: none"> consulting, staffing agency, or other entity involved facility operations. 			
	Notify residents, staff, union, Ombudsman within 5 days of execution of binding letter of intent or agreement for: <ul style="list-style-type: none"> sale, mortgage of real property of facility; consulting, staffing agency, or other entity involved facility operations. 	10/24/21		Hinman summary available here .
102 , 141	Disclosure and Notice of Owners, Rates, Landlord, Contracts			
	<ul style="list-style-type: none"> Provide DOH with list of owners for posting on DOH website, updated within 30 days of any change. 	10/24/21		Available here .
	Post on nursing home website: <ul style="list-style-type: none"> maximum rates for residency and services, including rates for each non-governmental payer, to be updated by April 1 annually; list of owners, to be updated within 30 days of any change; name and address of any landlord of the facility, to be updated regularly; summary of all contracts for goods and services for which a facility uses Medicaid or Medicare funds, to be updated within 30 days of execution. 	10/24/21		Available here .
441	Posting of CMS Star Ratings			
	Nursing homes must post: <ul style="list-style-type: none"> overall CMS star rating on the homepage of its website and website of entity that owns or operates it; conspicuously post most recent overall star rating so it is visible to residents and public. DOH must post most recent star rating of every nursing homes on home page of DOH website or by an accessible link.	01/06/22		Available here .

Chapter of 2021	Requirements	Effective Date	Regulations	LANY article/summary
156	Minimum Nursing Hours Requirements			
	<ul style="list-style-type: none"> • 1/1-12/31/22: Requires daily average staffing hours equal to 3.5 hours of care per resident per day by CNA, RN, LPN, or NA. No less than 2.2 hours per resident per day may be provided by a CNA or NA, and no less than 1.1 hours of care per resident per day provided by RN or LPN. • 1/1/23: NA hours do not count; must be provided by CNA. 	01/01/22; no penalties may be imposed until 4/1/22.	Proposed. Available here . Comments due 1/18/22.	Available here and here
57 (Part GG)	Minimum Direct Care Spending Requirements			
	<ul style="list-style-type: none"> • Requires nursing homes to spend at least 70% of operating revenue on direct resident care, of which at least 40% must be spent on resident-facing staffing. • Caps profits at 5 percent. • Exempts CCRCs, specialty facilities. 	Applies to spending on and after 1/1/22. Excess revenue to be remitted by 11/1 of next year.	Proposed. Available here . Comments due 1/18/22.	Available here .

*No DOH form has been developed for this attestation.

December 15, 2021