

**LOCAL LAW TO BE ENACTED BY  
THE ERIE COUNTY LEGISLATURE  
IN THE  
COUNTY OF ERIE**

**LOCAL LAW INTRO. No. 10-1- 2017  
LOCAL LAW No. \_\_\_\_\_ - 2017**

A LOCAL LAW in relation to increasing Accountability in Nursing Homes otherwise known as "Ruthie's Law"

**Section 1**

**LEGISLATIVE FINDINGS AND INTENT**

The Erie County Legislature hereby finds that, given recent incidents of negligence in nursing home settings and in order to ensure a reasonable level of care and accountability, additional efforts must be made by nursing homes to be more proactive in their responses to incidents within their facilities, more transparent about those incidents and the causes thereof, and to demonstrate more clearly an awareness of their responsibilities to their patients and their patients' loved ones. Nursing homes are entrusted with the very lives of their residents and the Erie County Legislature hereby finds that this responsibility is unparalleled in its importance. As such, this legislation intends to ensure the establishment of heightened accountability measures for nursing home facilities within Erie County.

**Section 2**

**DEFINITIONS**

As used in this Local law, the following terms shall have the meanings indicated:

- a) "Nursing Home" or "Nursing Home Facility" shall mean a licensed facility (subject to Article 28 of the New York State Public Health Law) functioning as a place of residence for individuals of advancing years who suffer from physical or mental disabilities, and who require constant nursing care to perform their daily living activities.
- b) "Designated Representative" shall mean the individual or individuals designated to receive information and to assist and/or act on behalf of a particular resident to the extent permitted by New York State law.
- c) "Commissioner" shall mean the Erie County Commissioner of Senior Services.
- d) "Department" shall mean the Erie County Department of Senior Services.
- e) "Nursing Home Performance Quality measures" shall mean the measures selected by the Center for Medicare and Medicaid Services which provide an indication of how well nursing homes provide care for its residents. These indicating measures are also used by the New York State Department of Health with all nursing homes.
- f) "Reportable Event" shall mean any altercation between patients and or staff of a Nursing Home that results in an injury to one or more patients, or any incident in which a patient is injured so severely that an emergency call to 911 and/or treatment outside the Nursing Home is required, or the death of a patient is found to have been connected, even in part, to a

negligent act or omission on the part of a Nursing Home.

### **Section 3**

#### **ACCOUNTABILITY MEASURES**

- a) Nursing Home Facilities shall provide semi-annual reports to the Commissioner which detail the number of Reportable Events which have occurred during the reporting period along with a description of the basic facts pertaining to each event. Reporting periods shall run from January 1 to May 31 and June 1 to December 31 respectively. Mandated reports shall be delivered to the Commissioner on or before the last day of the month succeeding the given reporting period. Patient identifying information shall not be included in such reports.
- b) Nursing Homes shall disclose to potential patients and Designated Representatives of potential patients, their most recent Nursing Home Performance Quality Measure data at the point of application, prior to admission. Documentation confirming that such disclosure has been made shall be maintained by all Nursing Homes and copies of all such documentation executed in a given reporting period shall be forwarded to the Commissioner along with the respective semi-annual report.
- c) Should a patient suffer an injury, due to a Reportable Event, which necessitates an emergency call to 911 and/or treatment outside the Nursing Home, the Nursing Home shall contact the Designated Representative as soon as practical but no later than two hours after the injury was found to have taken place. This notification of severe injury must include all known information at the time the injury was found to have taken place and the actions the Nursing Home has and will take in response to the event.

### **Section 4**

#### **SUBPOENA AUTHORITY**

The Commissioner shall have the power and authority to subpoena and compel the attendance and the production of books, records and papers of any Nursing Home officer or employee for the purpose of ascertaining facts in connection with the enforcement of the provisions of this local law. Should any Nursing Home officer or employee fail or refuse to obey any subpoena issued hereunder or fail to appear, produce books, records or other evidence required by a subpoena, he/she shall be subject to the order of a court of record in a contempt proceeding.

### **Section 5**

#### **ENFORCEMENT**

- a) The County of Erie, through its Department of Senior Services, shall have sole jurisdiction to enforce the provisions of this local law.
- b) Any Nursing Home which is found to be in violation of a provisions contained within section 3 of this local law shall be liable for a civil penalty not to exceed \$1000. Should a Nursing Home be found to have multiple violations within a calendar year, such Nursing Home shall be liable for an additional civil penalty not to exceed \$2000 for each subsequent violation.
- c) The Erie County Attorney may bring an action in any court of competent jurisdiction in the name of Erie County or the Erie County Department of Senior Services in order to obtain a judgment for the recovery of any civil penalty provided for in this local law.

**Section 6**  
**APPLICATION**

- a) The provisions of this local law shall apply to all Nursing Homes located within the geographic boundaries of the County of Erie.
- b) No provisions herein shall be constructed to limit or preclude the exercise of any authority of the Commissioner or Department provided by any local, state, or federal law, rule or regulation.

**Section 7**  
**SEVERABILITY**

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**Section 8**  
**EFFECTIVE DATE**

This Local Law shall take effect upon filing with the Secretary of State.

**Sponsors:**

Legislator Barbara Miller-Williams  
Legislator Betty Jean Grant  
Legislator Peter J. Savage, III  
Legislator Kevin R. Hardwick  
Minority Leader, Legislator Thomas A. Loughran  
Legislator Edward A. Rath, III  
Legislator Patrick B. Burke  
Legislator Ted B. Morton  
Legislator Lynne M. Dixon  
Majority Leader, Legislator Joseph C. Lorigo  
Chairman, Legislator John J. Mills