

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one)
of **ERIE**

FILED
STATE RECORDS

JUL 11 2017

DEPARTMENT OF STATE

Local Law No. 2 of the year 2017

A local law In Relation to Increasing Accountability in Nursing Homes otherwise
(Insert Title)
known as "Ruthie's Law"

Be it enacted by the _____ of the _____
(Name of Legislative Body)

County City Town Village
(Select one)
of Erie County Legislature

as follows:

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.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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 construed 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**

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable (Name of Legislative Body) provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 17 of the (County) _____ of Erie _____ was duly passed by the Erie County Legislature _____ on June 8 20 17, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the Erie County Executive _____ and was deemed duly adopted (Elective Chief Executive Officer) on 7/7 2017, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local (Elective Chief Executive Officer) law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____, having been submitted to referendum pursuant to the provisions of section (38)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

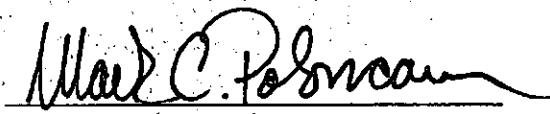
Karen M. McCarthy

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: July 7 2017

A Public Hearing was held on the foregoing Local Law Intro. No. 10-1 (2017) on June 26, 2017 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 7th day of July, 2017.



Mark C. Poloncarz

A Public Hearing was held on the foregoing Local Law Intro. No. 10-1 2017 on June 26, 2017 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this _____ day of July, 2017.

Mark C. Poloncarz