

[Second Reprint]
SENATE, No. 1612

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

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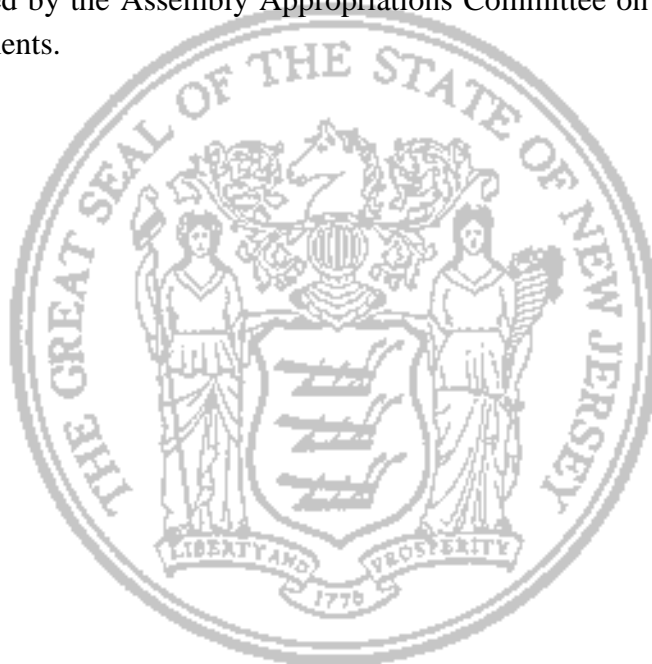
Senators Diegnan, Turner, Cruz-Perez, Greenstein and Cunningham

SYNOPSIS

Establishes minimum certified nurse aide-to-resident ratios in nursing homes.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 18, 2019, with amendments.



(Sponsorship Updated As Of: 7/24/2018)

1 AN ACT concerning staffing requirements for nursing homes and
 2 supplementing Title 30 of the Revised Statutes.

3
 4 **BE IT ENACTED** by the Senate and General Assembly of the State
 5 of New Jersey:

6
 7 1. a. Notwithstanding any other staffing requirements as may
 8 be established by law, every nursing home as defined in section 2 of
 9 P.L.1976, c.120 (C.30:13-2) or licensed pursuant to P.L.1971, c.136
 10 (C.26:2H-1 et seq.) shall maintain the following minimum
 11 ²**[certified nurse aide]** direct care staff²-to-resident ratios:

12 (1) one ²**[certified nurse aide]** direct care staff member² to
 13 every eight residents for the day shift;

14 (2) one ²**[certified nurse aide]** direct care staff member² to
 15 every 10 residents for the evening shift; and

16 (3) one ²**[certified nurse aide]** direct care staff member² to
 17 every ²**[16]** 15² residents for the night shift.

18 b. Upon any expansion of resident census by the nursing home,
 19 the nursing home shall be exempt from any increase in ²**[certified**
 20 **nurse aide]** direct care² staffing ratios for a period of nine
 21 consecutive shifts from the date of the expansion of the resident
 22 census.

23 c. (1) The computation of ²**[certified nurse aide]**² minimum
 24 direct care² staffing ratios shall be carried to the hundredth place.

25 (2) If the application of the ratios listed in subsection a. of this
 26 section results in other than a whole number of ²**[certified nurse**
 27 **aides]** direct care staff members² for a shift, the number of required
 28 ²**[certified nurse aides]** direct care staff members² shall be rounded
 29 to the next higher whole number when the resulting ratio, carried to
 30 the hundredth place, is fifty-one hundredths or higher.

31 (3) All computations shall be based on the midnight census for
 32 the day in which the shift begins.

33 d. Nothing in this section shall be construed to affect any
 34 minimum staffing requirements for nursing homes as may be
 35 required by the Commissioner of Health for staff other than
 36 ²**[certified nurse aides]** direct care staff², or to restrict the ability of
 37 a nursing home to increase staffing levels, at any time, beyond the
 38 established minimum.

39 e. The minimum ²**[certified nurse aide-to-resident]** direct care
 40 staffing² ratios required by this section shall not ²**[apply]** be
 41 applicable² to a pediatric long-term care facility ²that is² licensed

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted May 21, 2018.

²Assembly AAP committee amendments adopted June 18, 2019.

1 ²in accordance with N.J.A.C.8:33H-1.5 by the Department of
2 Health².

3 f. ²The Commissioner of Health shall adopt rules, pursuant to
4 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
5 et seq.), concerning the conspicuous posting in nursing homes of
6 the minimum certified nurse aide-to-resident ratios required by this
7 act, any required reporting by nursing homes of compliance with
8 the provisions of this act, any mechanisms for enforcement, and the
9 manner in which residents, their families or representatives, or other
10 individuals may report failures of nursing homes to maintain the
11 minimum certified nurse aide-to-resident ratios required by this
12 act.] As used in this section, “direct care staff” or “direct care staff
13 member” means any registered professional nurse, licensed
14 practical nurse, or certified nurse aide who is acting in accordance
15 with their authorized scope of practice, and pursuant to documented
16 employee time schedules.²

17
18 ¹2. Pursuant to the “Administrative Procedure Act,” P.L.1968,
19 c.410 (C.52:14B-1 et seq.), the Commissioner of Health shall adopt
20 rules and regulations to effectuate the purposes of this act.]¹

21
22 ²2. The Department of Health shall develop a procedure by
23 which facilities may apply for, and obtain, an annual renewable
24 waiver of the minimum staffing requirements established under
25 section 1 of this act. Any facility that has thoroughly documented
26 staffing or other hardships, and which has properly advertised
27 staffing positions, and made attempts to recruit new employees
28 consistent with the minimum staffing levels established under
29 section 1 of this act, shall be eligible for a waiver under this section.
30 In determining whether to grant a waiver, the Department of Health
31 shall consider the current shortage of direct care staff within the
32 State, and the facility’s ability to attain and retain the minimum
33 staffing levels established by section 1 of this act, in light of the
34 facility’s hiring efforts.²

35
36 ²3. a. There is hereby established the “Special Task Force on
37 Direct Care Workforce Retention and Recruitment.”

38 b. The purpose of the task force shall be to:

- 39 (1) evaluate current direct care staffing levels in the State;
40 (2) examine policies and procedures used to track data on direct
41 care staffing, including workforce turnover rates in long-term care,
42 staffing statistics, and vacancy rates;
43 (3) examine the effectiveness of staff retention and recruitment
44 strategies and initiatives that are in place for direct care staff;
45 (4) identify any existing circumstances that allow for a shortage
46 or surplus of direct care staff; and

1 (5) develop recommendations for legislation, policies, short-
2 term and long-term strategies for the retention and recruitment of
3 direct care staff to ensure an adequate workforce is in place to
4 provide high quality, cost-effective health care.

5 c. The task force shall have the duty to take appropriate actions
6 as necessary to effectuate its purposes, including, but not limited to,
7 engaging in the evaluation of workplace practices and
8 organizational cultures, advancement opportunities, job supports
9 and incentives, training opportunities, wages and benefits,
10 educational initiatives, and certification reciprocity rules.

11 d. The task force shall consist of 16 members as follows: the
12 Commissioner of Labor and Workforce Development, or the
13 commissioner's designee, who shall serve ex officio; the
14 Commissioner of Human Services, or the commissioner's designee,
15 who shall serve ex officio; the Commissioner of Health, or the
16 commissioner's designee, who shall serve ex officio; the
17 Commissioner of Higher Education, or the commissioner's
18 designee, who shall serve ex officio; the Long Term Care
19 Ombudsman, or the ombudsman's designee, who shall serve ex
20 officio; one representative of the 1199 SEIU United Healthcare
21 Workers East, to be appointed by the Senate President; one
22 representative of the American Association of Retired Persons
23 (AARP), to be appointed by the Speaker of the General Assembly;
24 one representative from LeadingAge New Jersey, to be appointed
25 by the Senate President; one representative from the Health Care
26 Association of New Jersey, to be appointed by the Senate President;
27 one representative of the New Jersey Hospital Association, to be
28 appointed by the Senate President; one direct care staff professional
29 who has experience as a certified nurse aide in a not-for-profit
30 nursing facility, to be appointed by the Governor; one direct care
31 staff professional who has experience as a certified nurse aide in a
32 for-profit nursing facility, to be appointed by the Governor; two
33 members of the Senate, who shall not be of the same political party,
34 to be appointed by the Senate President; and two members of the
35 General Assembly, who shall not be of the same political party, to
36 be appointed by the Speaker of the General Assembly.

37 e. All appointments to the task force shall be made within 120
38 days after the effective date of this act. Any vacancies in the
39 membership shall be filled in the same manner as the original
40 appointments. The members of the task force shall serve without
41 compensation, but may be reimbursed for reasonable expenses
42 incurred in the performance of their duties, subject to the
43 availability of funds.

44 f. The Department of Labor and Workforce Development shall
45 provide professional and clerical staff to the task force as necessary
46 to carry out its duties and effectuate its purposes.

47 g. The task force shall organize as soon as practicable, but not
48 more than 120 days after the effective date of this act. The task

1 force shall meet and hold hearings at the times and places it may
2 deem appropriate and necessary to fulfill its duties and effectuate its
3 purposes under this section. The task force shall hold a minimum
4 of one public hearing in each of the north, central, and southern
5 regions of the State, in order to meet with long-term care providers
6 and solicit their input and recommendations regarding the retention
7 and recruitment of direct care staff.

8 h. Not later than 12 months following the task force's
9 organizational meeting, the task force shall submit to the Governor,
10 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
11 Legislature, a report of its activities under this section. The report
12 shall identify the task force's findings on long-term care workforce
13 issues, and its recommendations for addressing these issues.

14 i. The task force shall expire upon the submission of its report
15 pursuant to subsection h. of this section.²
16

17 ²4. Pursuant to the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.), the Commissioner of Health shall adopt
19 rules and regulations to effectuate the purposes of sections 1 and 2
20 of this act.²
21

22 ²[2.] 5.² This act shall take effect ²[of] on² the first day of the
23 ²[fourth] sixth² month next following the date of enactment, but
24 the Commissioner of Health may take such anticipatory
25 administrative action in advance thereof as shall be necessary for
26 the implementation of this act.