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

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning staffing requirements for nursing homes and supplementing Title 30 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. Notwithstanding any other staffing requirements as may be established by law, every nursing home as defined in section 2 of P.L.1976, c.120 (C.30:13-2) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall maintain the following minimum direct care staff-to-resident ratios:

   (1) one direct care staff member to every 6.5 residents for the day shift;
   (2) one direct care staff member to every 10 residents for the evening shift; and
   (3) one direct care staff member to every 15 residents for the night shift.

b. Upon any expansion of resident census by the nursing home, the nursing home shall be exempt from any increase in direct care staffing ratios for a period of nine consecutive shifts from the date of the expansion of the resident census.

c. (1) The computation of minimum direct care staffing ratios shall be carried to the hundredth place.
   (2) If the application of the ratios listed in subsection a. of this section results in other than a whole number of direct care staff members for a shift, the number of required direct care staff members shall be rounded to the next higher whole number when the resulting ratio, carried to the hundredth place, is fifty-one hundredths or higher.
   (3) All computations shall be based on the midnight census for the day in which the shift begins.

d. Nothing in this section shall be construed to affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of Health for staff other than direct care staff, or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum.

e. The minimum direct care staffing ratios required by this section shall not be applicable to a pediatric long-term care facility that is licensed by the Department of Health.

f. As used in this section, “direct care staff” or “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with their authorized scope of practice, and pursuant to documented employee time schedules.

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

3. a. There is hereby established the “Special Task Force on
Direct Care Workforce Retention and Recruitment.”
b. The purpose of the task force shall be to:
   (1) evaluate current direct care staffing levels in the State;
   (2) examine policies and procedures used to track data on direct
care staffing, including workforce turnover rates in long-term care,
   staffing statistics, and vacancy rates;
   (3) examine the effectiveness of staff retention and recruitment
   strategies and initiatives that are in place for direct care staff;
   (4) identify any existing circumstances that allow for a shortage
   or surplus of direct care staff; and
   (5) develop recommendations for legislation, policies, short-
term and long-term strategies for the retention and recruitment of
direct care staff to ensure an adequate workforce is in place to
provide high quality, cost-effective health care.

c. The task force shall have the duty to take appropriate actions
as necessary to effectuate its purposes, including, but not limited to,
engaging in the evaluation of workplace practices and
organizational cultures, advancement opportunities, job supports
and incentives, training opportunities, wages and benefits,
educational initiatives, and certification reciprocity rules.
d. The task force shall consist of 16 members as follows: the
Commissioner of Labor and Workforce Development, or the
commissioner’s designee, who shall serve ex officio; the
Commissioner of Human Services, or the commissioner’s designee,
who shall serve ex officio; the Commissioner of Health, or the
commissioner’s designee, who shall serve ex officio; the
Commissioner of Higher Education, or the commissioner’s
designee, who shall serve ex officio; the Long Term Care
Ombudsman, or the ombudsman’s designee, who shall serve ex
officio; one representative of the 1199 SEIU United Healthcare
Workers East, to be appointed by the Senate President; one
representative of the American Association of Retired Persons
(AARP), to be appointed by the Speaker of the General Assembly;
one representative from LeadingAge New Jersey, to be appointed
by the Senate President; one representative from the Health Care
Association of New Jersey, to be appointed by the Senate President;
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one representative of the New Jersey Hospital Association, to be appointed by the Senate President; one direct care staff professional who has experience as a certified nurse aide in a not-for-profit nursing facility, to be appointed by the Governor; one direct care staff professional who has experience as a certified nurse aide in a for-profit nursing facility, to be appointed by the Governor; two members of the Senate, who shall not be of the same political party, to be appointed by the Senate President; and two members of the General Assembly, who shall not be of the same political party, to be appointed by the Speaker of the General Assembly.

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

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

g. The task force shall organize as soon as practicable, but not more than 120 days after the effective date of this act. The task force shall meet and hold hearings at the times and places it may deem appropriate and necessary to fulfill its duties and effectuate its purposes under this section. The task force shall hold a minimum of one public hearing in each of the north, central, and southern regions of the State, in order to meet with long-term care providers and solicit their input and recommendations regarding the retention and recruitment of direct care staff.

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

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

4. Pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health shall adopt rules and regulations to effectuate the purposes of sections 1 and 2 of this act.

5. This act shall take effect on the first day of the sixth month next following the date of enactment, but the Commissioner of Health may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.
This bill would establish minimum staffing ratios for direct care staff who provide services to nursing home residents. “Direct care staff” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with their authorized scope of practice, and pursuant to documented employee time schedules.

Under the bill’s provisions, the applicable staffing ratios will be as follows:

1. One direct care staff member for every 6.5 residents on the day shift;
2. One direct care staff member for every 10 residents on the evening shift; and
3. One direct care staff member for every 15 residents on the night shift.

The bill sets forth a methodology for computing the appropriate staffing ratio, and provides that a nursing home that experiences an increase in resident census will be exempt from increasing the number of direct care staff members for nine consecutive shifts.

Nothing in the bill would affect any other minimum staffing requirements that may be mandated by the Commissioner of Health for nursing home staff other than direct care staff members, and nothing in the bill would prohibit a nursing home from establishing direct care staffing levels above the established minimum.

The minimum direct care staffing ratios required by the bill would not be applicable to a pediatric long-term care facility that is licensed by the Department of Health.

The Department of Health will be required to develop a procedure by which facilities may apply for, and obtain, an annual renewable waiver of the minimum staffing requirements established under the bill. Any facility that has thoroughly documented staffing or other hardships, and which has properly advertised staffing positions, and made attempts to recruit new employees consistent with the minimum staffing levels established under the bill, would be eligible for a waiver. In determining whether to grant a waiver, the Department of Health is to consider the current shortage of direct care staff within the State, and the facility’s ability to attain and retain the minimum staffing levels established by the bill, in light of the facility’s hiring efforts.

The bill would also establish a “Special Task Force on Direct Care Workforce Retention and Recruitment,” the purpose of which would be to: 1) evaluate current direct care staffing levels in the State; 2) examine policies and procedures used to track data on direct care staffing, including workforce turnover rates in long-term care, staffing statistics, and vacancy rates; 3) examine the effectiveness of staff retention and recruitment strategies and initiatives that are in place for direct care staff; 4) identify any
existing circumstances that allow for a shortage or surplus of direct
care staff; and 5) develop recommendations for legislation, policies,
short-term and long-term strategies for the retention and recruitment
of direct care staff to ensure an adequate workforce is in place to
provide high quality, cost-effective health care.

The task force would have the duty to take appropriate actions as
necessary to effectuate its purposes, including, but not limited to,
engaging in the evaluation of workplace practices and
organizational cultures, advancement opportunities, job supports
and incentives, training opportunities, wages and benefits,
educational initiatives, and certification reciprocity rules. The task
force would also be required to hold a minimum of one public
hearing in each of the north, central, and southern regions of the
State, in order to meet with long-term care providers and solicit
their input and recommendations regarding the retention and
recruitment of direct care staff.

Not later than 12 months following the task force’s
organizational meeting, the task force would be required to submit a
report of its activities, including findings and recommendations on
long-term care workforce issues, to the Governor and the
Legislature. The task force would expire upon the submission of its
report.