

ASSEMBLY, No. 4652

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman PEDRO MEJIA

District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblywomen Speight and Jasey

SYNOPSIS

Establishes minimum direct care staff-to-resident ratios in nursing homes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/21/2020)

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

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

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7 1. a. Notwithstanding any other staffing requirements as may be
8 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 direct care
11 staff-to-resident ratios:

12 (1) one certified nurse aide to every six residents for the day shift;

13 (2) one direct care staff member to every 10 residents for the
14 evening shift, provided that no fewer than half of all staff members
15 shall be certified nurse aides, and each staff member shall be signed
16 in to work as a certified nurse aide and shall perform certified nurse
17 aide duties; and

18 (3) one direct care staff member to every 14 residents for the
19 night shift, provided that each direct care staff member shall sign in
20 to work as a certified nurse aide and perform certified nurse aide
21 duties.

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

26 c. (1) The computation of minimum direct care staffing ratios
27 shall be carried to the hundredth place.

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

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

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

42 e. The minimum direct care staffing ratios required by this
43 section shall not apply to any pediatric long-term care facility
44 licensed by the Department of Health.

45 f. As used in this section, "direct care staff member" means any
46 registered professional nurse, licensed practical nurse, or certified
47 nurse aide who is acting in accordance with that individual's

1 authorized scope of practice, and pursuant to documented employee
2 time schedules.

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4 2. A long-term care facility licensed pursuant to P.L.1971, c.136
5 (C.26:2H-1 et seq.) may employ certified homemaker-home health
6 aides to work as certified nurse aides, provided that the homemaker-
7 home health aide is enrolled in a qualified certified nurse aide
8 program and is working toward certification as a certified nurse aide.

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10 3. a. There is established in, but not of, the Department of Labor
11 and Workforce Development the Special Task Force on Direct Care
12 Workforce Retention and Recruitment. The purpose of the task force
13 shall be to:

14 (1) evaluate current direct care staffing levels in the State;

15 (2) examine policies and procedures used to track data on direct
16 care staffing, including workforce turnover rates in long-term care,
17 staffing statistics, and vacancy rates;

18 (3) examine the effectiveness of staff retention and recruitment
19 strategies and initiatives that are in place for direct care staff;

20 (4) identify any existing circumstances that allow for a shortage
21 or surplus of direct care staff;

22 (5) develop recommendations for legislation, policies, and short-
23 term and long-term strategies for the retention and recruitment of
24 direct care staff to ensure an adequate workforce is in place to provide
25 high-quality, cost-effective health care; and

26 (6) develop recommendations for a waiver process.

27 b. The task force shall take appropriate actions to effectuate its
28 purposes, including, but not limited to, engaging in the evaluation of
29 workplace practices and organizational cultures, advancement
30 opportunities, job supports and incentives, training opportunities,
31 wages and benefits, educational initiatives, and certification
32 reciprocity rules.

33 c. The task force shall consist of 16 members, as follows:

34 (1) the Commissioner of Labor and Workforce Development, the
35 Commissioner of Human Services, the Commissioner of Health, the
36 Secretary of Higher Education, and the New Jersey Long-Term Care
37 Ombudsman, or their designees, who shall serve ex officio;

38 (2) two members of the Senate appointed by the President of the
39 Senate, which members shall not be from the same political party;

40 (3) two members of the General Assembly appointed by the
41 Speaker of the General Assembly, which members shall not be from
42 the same political party; and

43 (4) seven public members, including:

44 (a) one direct care staff professional who has experience as a
45 certified nurse aide in a not-for-profit nursing facility, one direct care
46 staff professional who has experience as a certified nurse aide in a
47 for-profit nursing facility, and one representative of the Health Care
48 Association of New Jersey, to be appointed by the Governor;

1 (b) one representative from a Statewide majority labor
2 representative in non-profit or for-profit nursing facilities and one
3 representative of the New Jersey Hospital Association, to be
4 appointed by the President of the Senate; and

5 (c) one representative of the American Association of Retired
6 Persons and one representative of LeadingAge New Jersey and
7 Delaware, to be appointed by the Speaker of the General Assembly.

8 d. All appointments to the task force shall be made within 120
9 days after the effective date of this act. Any vacancies in the
10 membership shall be filled in the same manner as the original
11 appointments. The members of the task force shall serve without
12 compensation but may be reimbursed for reasonable expenses
13 incurred in the performance of their duties, within the limits of funds
14 made available to the task force for this purpose.

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

18 f. The task force shall organize as soon as practicable, but not
19 more than 120 days after the effective date of this act. The task force
20 shall meet and hold hearings at the times and places it may deem
21 appropriate and necessary to fulfill its duties and effectuate its
22 purposes under this section. The task force shall hold at least one
23 public hearing in each of the northern, central, and southern regions
24 of the State, the purpose of which hearings shall be to meet with long-
25 term care providers and solicit their input and recommendations
26 regarding the retention and recruitment of direct care staff.

27 g. No later than one year after the date of the task force's
28 organizational meeting, the task force shall prepare and submit to the
29 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
30 19.1), to the Legislature, a report of its activities under this section.
31 The report shall identify the task force's findings on long-term care
32 issues and its recommendations for addressing those issues.

33 h. The task force shall expire upon submission of the report
34 required pursuant to subsection g. of this section.

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

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40 5. This act shall take effect of the first day of the fourth month
41 next following the date of enactment, but the Commissioner of Health
42 may take such anticipatory administrative action in advance thereof
43 as shall be necessary for the implementation of this act. Section 3 of
44 this act shall expire upon submission of the task force's report
45 required pursuant to subsection g. of section 3 of this act.

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STATEMENT

1 This bill requires nursing homes to maintain certain minimum
2 direct care staff-to-resident ratios. Specifically, the bill will require:

3 (1) one certified nurse aide to every six residents for the day shift;

4 (2) one direct care staff member to every 10 residents for the
5 evening shift, provided that no fewer than half of all staff members
6 are to be certified nurse aides, and each staff member will sign in to
7 work as a certified nurse aide and will perform certified nurse aide
8 duties; and

9 (3) one direct care staff member to every 14 residents for the
10 night shift, provided that each direct care staff member is to sign in
11 to work as a certified nurse aide and perform certified nurse aide
12 duties.

13 As used in the bill, “direct care staff member” means any
14 registered professional nurse, licensed practical nurse, or certified
15 nurse aide who is acting in accordance with that individual’s
16 authorized scope of practice, and pursuant to documented employee
17 time schedules.

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

22 Nothing in the bill is to affect any minimum staffing requirements
23 for nursing homes as may be required by the Commissioner of Health
24 for staff other than direct care staff or to restrict the ability of a
25 nursing home to increase staffing levels, at any time, beyond the
26 established minimum. The staffing ratios required under the bill will
27 not apply to pediatric long-term care facilities.

28 The bill provides that long-term care facilities may employ
29 certified homemaker-home health aides to work as certified nurse
30 aides, provided that the homemaker-home health aide is enrolled in
31 a qualified certified nurse aide program and is working toward
32 certification as a certified nurse aide.

33 The bill establishes in, but not of, the Department of Labor and
34 Workforce Development the “Special Task Force on Direct Care
35 Workforce Retention and Recruitment. The purpose of the task force
36 will be to:

37 (1) evaluate current direct care staffing levels in the State;

38 (2) examine policies and procedures used to track data on direct
39 care staffing, including workforce turnover rates in long-term care,
40 staffing statistics, and vacancy rates;

41 (3) examine the effectiveness of staff retention and recruitment
42 strategies and initiatives that are in place for direct care staff;

43 (4) identify any existing circumstances that allow for a shortage
44 or surplus of direct care staff;

45 (5) develop recommendations for legislation, policies, and short-
46 term and long-term strategies for the retention and recruitment of
47 direct care staff to ensure an adequate workforce is in place to provide
48 high-quality, cost-effective health care; and

49 (6) develop recommendations for a waiver process.

1 In carrying out its work, the task force will evaluate workplace
2 practices and organizational cultures, advancement opportunities, job
3 supports and incentives, training opportunities, wages and benefits,
4 educational initiatives, and certification reciprocity rules.

5 The task force will consist of 16 members, including: the
6 Commissioner of Labor and Workforce Development, the
7 Commissioner of Human Services, the Commissioner of Health, the
8 Secretary of Higher Education, and the New Jersey Long-Term Care
9 Ombudsman, or their designees, who will serve ex officio; two
10 members of the Senate representing different political parties and two
11 members of the General Assembly representing different political
12 parties; and seven public members with knowledge and experience
13 related to nursing facilities, to be variously appointed by the
14 Governor, the Senate President, and the Speaker of the General
15 Assembly.

16 The task force will be required to organize within 120 days after
17 the effective date of the bill and hold at least one public hearing in
18 each of the northern, central, and southern regions of the State, the
19 purpose of which hearings shall be to meet with long-term care
20 providers and solicit their input and recommendations regarding the
21 retention and recruitment of direct care staff.

22 No later than one year after the date of the task force's
23 organizational meeting, it will be required to prepare and submit a
24 report to the Governor and the Legislature concerning its activities,
25 findings, and recommendations. The task force will expire upon
26 submission of its report.