

SENATE, No. 2468

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/28/2020)

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 direct
11 care staff-to-resident ratios:

12 (1) one direct care staff member to every 6.5 residents for the
13 day shift;

14 (2) one direct care staff member to every 10 residents for the
15 evening shift; and

16 (3) one direct care staff member to every 15 residents for the
17 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 direct care
20 staffing ratios for a period of nine consecutive shifts from the date
21 of the expansion of the resident census.

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

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

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

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

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

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

45
46 2. The Department of Health shall develop a procedure by
47 which facilities may apply for, and obtain, an annual renewable
48 waiver of the minimum staffing requirements established under

1 section 1 of this act. Any facility that has thoroughly documented
2 staffing or other hardships, and which has properly advertised
3 staffing positions, and made attempts to recruit new employees
4 consistent with the minimum staffing levels established under
5 section 1 of this act, shall be eligible for a waiver under this section.
6 In determining whether to grant a waiver, the Department of Health
7 shall consider the current shortage of direct care staff within the
8 State, and the facility's ability to attain and retain the minimum
9 staffing levels established by section 1 of this act, in light of the
10 facility's hiring efforts.

11

12 3. a. There is hereby established the "Special Task Force on
13 Direct Care Workforce Retention and Recruitment."

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

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

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

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

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

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

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

33 d. The task force shall consist of 16 members as follows: the
34 Commissioner of Labor and Workforce Development, or the
35 commissioner's designee, who shall serve ex officio; the
36 Commissioner of Human Services, or the commissioner's designee,
37 who shall serve ex officio; the Commissioner of Health, or the
38 commissioner's designee, who shall serve ex officio; the
39 Commissioner of Higher Education, or the commissioner's
40 designee, who shall serve ex officio; the Long Term Care
41 Ombudsman, or the ombudsman's designee, who shall serve ex
42 officio; one representative of the 1199 SEIU United Healthcare
43 Workers East, to be appointed by the Senate President; one
44 representative of the American Association of Retired Persons
45 (AARP), to be appointed by the Speaker of the General Assembly;
46 one representative from LeadingAge New Jersey, to be appointed
47 by the Senate President; one representative from the Health Care
48 Association of New Jersey, to be appointed by the Senate President;

1 one representative of the New Jersey Hospital Association, to be
2 appointed by the Senate President; one direct care staff professional
3 who has experience as a certified nurse aide in a not-for-profit
4 nursing facility, to be appointed by the Governor; one direct care
5 staff professional who has experience as a certified nurse aide in a
6 for-profit nursing facility, to be appointed by the Governor; two
7 members of the Senate, who shall not be of the same political party,
8 to be appointed by the Senate President; and two members of the
9 General Assembly, who shall not be of the same political party, to
10 be appointed by the Speaker of the General Assembly.

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

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

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

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

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

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

43

44 5. This act shall take effect on the first day of the sixth month
45 next following the date of enactment, but the Commissioner of
46 Health may take such anticipatory administrative action in advance
47 thereof as shall be necessary for the implementation of this act.

STATEMENT

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

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

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

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

WITHDRAWN