

[Second Reprint]

SENATE, No. 2712

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 20, 2020

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**Senator Lagana, Assemblywomen Speight, Jasey, Assemblyman Freiman,
Assemblywomen McKnight, Lopez, Swain and Assemblyman Tully**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on September 21, 2020, with amendments.



(Sponsorship Updated As Of: 9/24/2020)

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
 11 ¹**[certified nurse aide]** direct care staff¹ -to-resident ratios:

12 (1) one certified nurse aide to every ¹**[eight]** ²**[six¹]** eight²
 13 residents for the day shift;

14 (2) one ¹**[certified nurse aide]** direct care staff member¹ to
 15 every 10 residents for the evening shift ¹, provided that no fewer
 16 than half of all staff members shall be certified nurse aides, and
 17 each staff member shall be signed in to work as a certified nurse
 18 aide and shall perform certified nurse aide duties¹; and

19 (3) one ¹**[certified nurse aide]** direct care staff member¹ to
 20 every ¹**[16]** ¹⁴ residents for the night shift ¹, provided that each
 21 direct care staff member shall sign in to work as a certified nurse
 22 aide and perform certified nurse aide duties¹.

23 b. Upon any expansion of resident census by the nursing home,
 24 the nursing home shall be exempt from any increase in ¹**[certified**
 25 **nurse aide]** direct care¹ staffing ratios for a period of nine
 26 consecutive shifts from the date of the expansion of the resident
 27 census.

28 c. (1) The computation of ¹**[certified nurse aide]**¹ minimum
 29 direct care¹ staffing ratios shall be carried to the hundredth place.

30 (2) If the application of the ratios listed in subsection a. of this
 31 section results in other than a whole number of ¹direct care staff,
 32 including¹ certified nurse aides ¹,¹ for a shift, the number of
 33 required ¹**[certified nurse aides]** direct care staff members¹ shall be
 34 rounded to the next higher whole number when the resulting ratio,
 35 carried to the hundredth place, is fifty-one hundredths or higher.

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

38 d. Nothing in this section shall be construed to affect any
 39 minimum staffing requirements for nursing homes as may be
 40 required by the Commissioner of Health for staff other than ¹direct
 41 care staff, including¹ certified nurse aides, or to restrict the ability
 42 of a nursing home to increase staffing levels, at any time, beyond
 43 the established minimum.

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 September 14, 2020.

²Senate SBA committee amendments adopted September 21, 2020.

1 ¹e. The minimum direct care staffing ratios required by this
2 section shall not apply to any pediatric long-term care facility
3 licensed by the Department of Health.

4 f. As used in this section, “direct care staff member” means
5 any registered professional nurse, licensed practical nurse, or
6 certified nurse aide who is acting in accordance with that
7 individual’s authorized scope of practice, and pursuant to
8 documented employee time schedules.¹

9
10 ¹2. A long-term care facility licensed pursuant to P.L.1971,
11 c.136 (C.26:2H-1 et seq.) may employ certified homemaker-home
12 health aides to work as certified nurse aides, provided that the
13 homemaker-home health aide is enrolled in a qualified certified
14 nurse aide program and is working toward certification as a
15 certified nurse aide.¹

16
17 ¹3. a. There is established in, but not of, the Department of
18 Labor and Workforce Development the Special Task Force on
19 Direct Care Workforce Retention and Recruitment. The purpose of
20 the task force shall be to:

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

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

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

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

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

33 (6) develop recommendations for a waiver process.

34 b. The task force shall take appropriate actions to effectuate its
35 purposes, including, but not limited to, engaging in the evaluation
36 of workplace practices and organizational cultures, advancement
37 opportunities, job supports and incentives, training opportunities,
38 wages and benefits, educational initiatives, and certification
39 reciprocity rules.

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

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

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

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

4 (4) seven public members, including:

5 (a) one direct care staff professional who has experience as a
6 certified nurse aide in a not-for-profit nursing facility, one direct
7 care staff professional who has experience as a certified nurse aide
8 in a for-profit nursing facility, and one representative of the Health
9 Care Association of New Jersey, to be appointed by the Governor;

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

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

17 d. All appointments to the task force shall be made within 120
18 days after the effective date of this act. Any vacancies in the
19 membership shall be filled in the same manner as the original
20 appointments. The members of the task force shall serve without
21 compensation but may be reimbursed for reasonable expenses
22 incurred in the performance of their duties, within the limits of
23 funds made available to the task force for this purpose.

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

27 f. The task force shall organize as soon as practicable, but not
28 more than 120 days after the effective date of this act. The task
29 force shall meet and hold hearings at the times and places it may
30 deem appropriate and necessary to fulfill its duties and effectuate its
31 purposes under this section. The task force shall hold at least one
32 public hearing in each of the northern, central, and southern regions
33 of the State, the purpose of which hearings shall be to meet with
34 long-term care providers and solicit their input and
35 recommendations regarding the retention and recruitment of direct
36 care staff.

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

44 h. The task force shall expire upon submission of the report
45 required pursuant to subsection g. of this section.¹

46
47 ¹**[2.] 4.**¹ Pursuant to the "Administrative Procedure Act,"
48 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health

1 shall adopt rules and regulations to effectuate the purposes of this
2 act.

3
4 ¹~~3.~~ 5.¹ This act shall take effect of the first day of the fourth
5 month next following the date of enactment, but the Commissioner
6 of Health may take such anticipatory administrative action in
7 advance thereof as shall be necessary for the implementation of this
8 act. ¹Section 3 of this act shall expire upon submission of the task
9 force's report required pursuant to subsection g. of section 3 of this
10 act.¹