

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 530
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: SEPTEMBER 16, 2020

SUMMARY

- Synopsis:** Establishes minimum certified nurse aide-to-resident ratios in nursing homes.
- Type of Impact:** Annual impacts on State expenditures and revenues, General Fund; Indeterminate impact on expenditures of certain counties.
- Agencies Affected:** Department of Health, Department of Human Services, Department of Military and Veterans Affairs, certain county governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Impact	Indeterminate
State Revenue Impact	Indeterminate
County Expenditure Impact	Indeterminate

- The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill.
- Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill’s direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.

BILL DESCRIPTION

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. In addition, the staffing ratios mandated under the bill would not 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 (DOH).

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 current staff retention and recruitment strategies and initiatives; 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.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill. Depending on the circumstances of each facility, the bill may require a nursing home to increase its direct care staffing, permit a reduction therein, or cause no change, particularly as the bill permits the DOH to issue waivers of the minimum staffing requirements if a nursing home can document certain hardships.

Nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating expenditures in complying with the direct care staffing requirements of the bill. Currently, the DMAVA operates three facilities. There are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

Annual State expenditures may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. For example, any additional direct care staff hired by nursing homes to provide services to Medicaid recipients would increase the operating costs of these facilities, thereby exerting upward pressure on Medicaid rates to compensate for the additional expenses. Conversely, any decrease in nursing home beds for Medicaid recipients in order to fulfill the direct care staffing ratios of this bill would reduce State Medicaid expenditures, as well as the federal Medicaid matching funds the State receives for such expenditures. While any change in nursing home operating expenditures does not automatically result in corresponding modifications to Medicaid nursing home rates, significant changes would be likely to trigger rate adjustments. Any change in nursing home rates would change annual State Medicaid expenditures and federal Medicaid matching funds. It is also possible that federal Medicare reimbursements to DMAVA for resident care and operational costs may be affected.

The bill may result in an indeterminate recurring State revenue increase due to the possible growth in direct care staff examination and certification fees collected by the DOH, which regulates certified nurse aides, and the New Jersey Board of Nursing, which licenses registered professional nurses and licensed practical nurses. Any increased revenues realized under the bill would be offset by an indeterminate recurring State expenditure increase attributable to any growth in the administrative demands on the direct care staffing examination and certification programs. The OLS expects any fiscal impact related to the examination and certification to be marginal. The bill may also result in a 12-month increase in State expenditures incurred by the Department of Labor and Workforce Development in providing professional and clerical staff support to the Special Task Force on Direct Care Workforce Retention and Recruitment, as mandated under the bill.

Section: Human Services

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).