

[First Reprint]

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)

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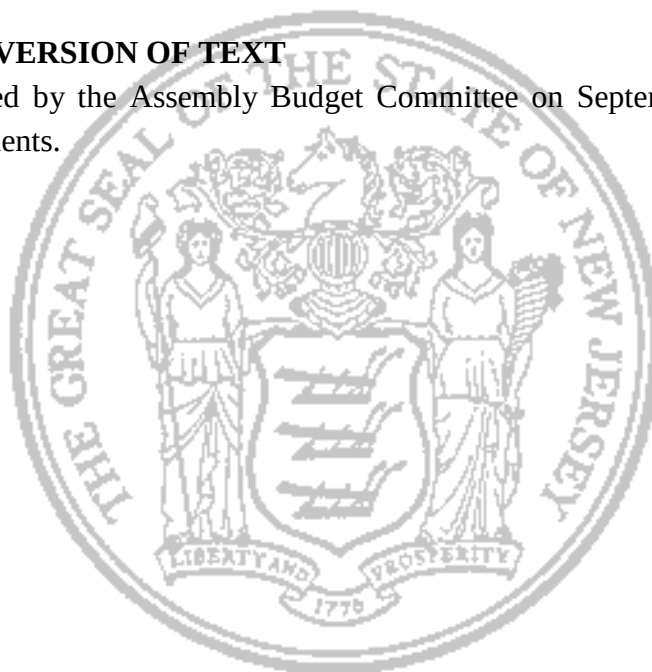
Assemblywomen Speight, Jasey, Assemblyman Freiman, Assemblywomen McKnight, Lopez, Swain and Assemblyman Tully

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Budget 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 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 ¹~~【six】~~ eight residents for the
13 day shift;

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

19 (3) one direct care staff member to every 14 residents for the night
20 shift, provided that each direct care staff member shall sign in to work
21 as a certified nurse aide and perform certified nurse aide 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 the
35 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 required
38 by the Commissioner of Health for staff other than direct care staff,
39 including certified nurse aides, or to restrict the ability of a nursing
40 home to increase staffing levels, at any time, beyond the established
41 minimum.

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

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:

¹Assembly ABU committee amendments adopted September 21, 2020.

1 nurse aide who is acting in accordance with that individual's
2 authorized scope of practice, and pursuant to documented employee
3 time schedules.

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

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

- 16 (1) evaluate current direct care staffing levels in the State;
17 (2) examine policies and procedures used to track data on direct
18 care staffing, including workforce turnover rates in long-term care,
19 staffing statistics, and vacancy rates;
20 (3) examine the effectiveness of staff retention and recruitment
21 strategies and initiatives that are in place for direct care staff;
22 (4) identify any existing circumstances that allow for a shortage
23 or surplus of direct care staff;
24 (5) develop recommendations for legislation, policies, and
25 short-term and long-term strategies for the retention and recruitment
26 of direct care staff to ensure an adequate workforce is in place to
27 provide high-quality, cost-effective health care; and
28 (6) develop recommendations for a waiver process.

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

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

- 36 (1) the Commissioner of Labor and Workforce Development,
37 the Commissioner of Human Services, the Commissioner of Health,
38 the Secretary of Higher Education, and the New Jersey Long-Term
39 Care Ombudsman, or their designees, who shall serve ex officio;
40 (2) two members of the Senate appointed by the President of the
41 Senate, which members shall not be from the same political party;
42 (3) two members of the General Assembly appointed by the
43 Speaker of the General Assembly, which members shall not be from
44 the same political party; and
45 (4) seven public members, including:
46 (a) one direct care staff professional who has experience as a
47 certified nurse aide in a not-for-profit nursing facility, one direct
48 care staff professional who has experience as a certified nurse aide

1 in a for-profit nursing facility, and one representative of the Health
2 Care Association of New Jersey, to be appointed by the Governor;

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

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

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

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

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

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

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

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

44
45 5. This act shall take effect of the first day of the fourth month
46 next following the date of enactment, but the Commissioner of

- 1 Health may take such anticipatory administrative action in advance
- 2 thereof as shall be necessary for the implementation of this act.
- 3 Section 3 of this act shall expire upon submission of the task force's
- 4 report required pursuant to subsection g. of section 3 of this act.