ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4652

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4652.

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

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

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

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

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

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

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

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

The bill establishes in, but not of, the Department of Labor and Workforce Development the "Special Task Force on Direct Care Workforce Retention and Recruitment. The purpose of the task force will 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 existing circumstances that allow for a shortage or surplus of direct care staff;

(5) develop recommendations for legislation, policies, and 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; and

(6) develop recommendations for a waiver process.

In carrying out its work, the task force will evaluate 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 will consist of 16 members, including: the Commissioner of Labor and Workforce Development, the Commissioner of Human Services, the Commissioner of Health, the Secretary of Higher Education, and the New Jersey Long-Term Care Ombudsman, or their designees, who will serve ex officio; two members of the Senate representing different political parties and two members of the General Assembly representing different political parties; and seven public members with knowledge and experience related to nursing facilities, to be variously appointed by the Governor, the Senate President, and the Speaker of the General Assembly.

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

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

FISCAL IMPACT:

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. 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.

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.