

[First Reprint]

SENATE, No. 2712

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 20, 2020

Sponsored by:

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District 33 (Hudson)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on September 14, 2020, with amendments.



(Sponsorship Updated As Of: 9/14/2020)

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 ¹**certified**
 11 nurse aide **direct care staff**¹ -to-resident ratios:

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

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

19 (3) one ¹**certified nurse aide** direct care staff member¹ to every
 20 ¹**16** 14¹ residents for the night shift ¹, provided that each direct care
 21 staff member shall sign in to work as a certified nurse aide and
 22 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 care**¹ staffing ratios for a period of nine consecutive
 26 shifts from the date of the expansion of the resident census.

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

30 (6) develop recommendations for a waiver process.

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

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

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

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

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

47 (4) seven public members, including:

48 (a) one direct care staff professional who has experience as a

1 certified nurse aide in a not-for-profit nursing facility, one direct
2 care staff professional who has experience as a certified nurse aide
3 in a for-profit nursing facility, and one representative of the Health
4 Care Association of New Jersey, to be appointed by the Governor;

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

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

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

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

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

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

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

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

46
47 ¹**[3.] 5.** This act shall take effect of the first day of the fourth
48 month next following the date of enactment, but the Commissioner

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