

6571

2013-2014 Regular Sessions

I N A S S E M B L Y

April 10, 2013

Introduced by M. of A. GOTTFRIED, GUNTHER, MILLMAN, CLARK, JACOBS, PEOPLES-STOKES, ROSENTHAL, BRINDISI, BRONSON, COLTON, BENEDETTO, CAMARA, GABRYSZAK, JAFFEE, MAGNARELLI, MARKEY, MILLER, WEPRIN, RIVERA, ROBERTS, RYAN, SKARTADOS -- Multi-Sponsored by -- M. of A. ABBATE, ABINANTI, ARROYO, BARRON, BOYLAND, BRENNAN, BROOK-KRASNY, BUTLER, CAHILL, COOK, CRESPO, CUSICK, CYMBROWITZ, DINOWITZ, ENGLEBRIGHT, FARRELL, GIGLIO, GLICK, GRAF, HEASTIE, HOOPER, JOHNS, KEARNS, KELLNER, LAVINE, LIFTON, LUPARDO, MAGEE, MAISEL, McDONOUGH, McKEVITT, MONTESANO, NOLAN, ORTIZ, PAULIN, PERRY, PRETLOW, RA, RABBITT, RAIA, RAMOS, ROBINSON, RUSSELL, SALADINO, SCARBOROUGH, SCHIMEL, SWEENEY, TEDISCO, THIELE, TITONE, TITUS, WEINSTEIN, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the "safe staffing for quality care act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "safe staffing for quality care act".  
3 S 2. Paragraphs (a) and (b) of subdivision 2 of section 2805 of the  
4 public health law, paragraph (a) as amended by chapter 923 of the laws  
5 of 1973 and paragraph (b) as added by chapter 795 of the laws of 1965,  
6 are amended to read as follows:  
7 (a) Application for an operating certificate for a hospital shall be  
8 made upon forms prescribed by the department. The application shall  
9 [contain] INCLUDE the name of the hospital, the kind or kinds of hospi-  
10 tal service to be provided, the location and physical description of the  
11 institution, A DOCUMENTED STAFFING PLAN, AS DEFINED IN SECTION  
12 TWENTY-EIGHT HUNDRED TWENTY-FOUR OF THIS ARTICLE, and such other infor-  
13 mation as the department may require.  
14 (b) An operating certificate shall not be issued by the department  
15 unless it finds that the premises, equipment, personnel, DOCUMENTED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 STAFFING PLAN, rules and by-laws, standards of medical care, and hospi-  
2 tal service are fit and adequate and that the hospital will be operated  
3 in the manner required by this article and rules and regulations there-  
4 under.

5 S 3. The public health law is amended by adding nine new sections  
6 2823-a, 2824, 2825, 2826, 2827, 2828, 2829, 2830 and 2831 to read as  
7 follows:

8 S 2823-A. POLICY AND PURPOSE. THE LEGISLATURE FINDS AND DECLARES ALL  
9 OF THE FOLLOWING:

10 1. HEALTH CARE SERVICES ARE BECOMING COMPLEX AND IT IS INCREASINGLY  
11 DIFFICULT FOR PATIENTS TO ACCESS INTEGRATED SERVICES;

12 2. THE QUALITY OF PATIENT CARE IS JEOPARDIZED BECAUSE OF NURSE STAFF-  
13 ING SHORTAGES AND IMPROPER UTILIZATION OF NURSING SERVICES;

14 3. TO ENSURE THE ADEQUATE PROTECTION OF PATIENTS IN HEALTH CARE  
15 SETTINGS, IT IS ESSENTIAL THAT QUALIFIED REGISTERED NURSES AND OTHER  
16 LICENSED NURSES BE ACCESSIBLE AND AVAILABLE TO MEET THE NEEDS OF  
17 PATIENTS; AND

18 4. THE BASIC PRINCIPLES OF STAFFING IN THE HEALTH CARE SETTING SHOULD  
19 BE BASED ON THE PATIENT'S CARE NEEDS, THE SEVERITY OF CONDITION,  
20 SERVICES NEEDED AND THE COMPLEXITY SURROUNDING THOSE SERVICES.

21 S 2824. SAFE STAFFING; DEFINITIONS. THE FOLLOWING WORDS AND PHRASES,  
22 AS USED IN THIS ARTICLE, SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE  
23 CONTEXT OTHERWISE PLAINLY REQUIRES:

24 1. "ACUTE CARE FACILITY" SHALL MEAN A HOSPITAL OTHER THAN A RESIDEN-  
25 TIAL HEALTH CARE FACILITY AND SHALL ALSO INCLUDE ANY FACILITY THAT  
26 PROVIDES HEALTH CARE SERVICES PURSUANT TO THE MENTAL HYGIENE LAW, ARTI-  
27 CLE NINETEEN-G OF THE EXECUTIVE LAW OR THE CORRECTION LAW IF SUCH FACIL-  
28 ITY IS OPERATED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE OR  
29 A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION.

30 2. "ACUITY SYSTEM" SHALL MEAN AN ESTABLISHED MEASUREMENT INSTRUMENT  
31 WHICH (A) PREDICTS NURSING CARE REQUIREMENTS FOR INDIVIDUAL PATIENTS  
32 BASED ON SEVERITY OF PATIENT ILLNESS, NEED FOR SPECIALIZED EQUIPMENT AND  
33 TECHNOLOGY, INTENSITY OF NURSING INTERVENTIONS REQUIRED, AND THE  
34 COMPLEXITY OF CLINICAL NURSING JUDGMENT NEEDED TO DESIGN, IMPLEMENT AND  
35 EVALUATE THE PATIENT'S NURSING CARE PLAN; (B) DETAILS THE AMOUNT OF  
36 NURSING CARE NEEDED, BOTH IN NUMBER OF DIRECT-CARE NURSES AND IN SKILL  
37 MIX OF NURSING PERSONNEL REQUIRED, ON A DAILY BASIS, FOR EACH PATIENT IN  
38 A NURSING DEPARTMENT OR UNIT; AND (C) IS STATED IN TERMS THAT READILY  
39 CAN BE USED AND UNDERSTOOD BY DIRECT-CARE NURSES. THE ACUITY SYSTEM  
40 SHALL TAKE INTO CONSIDERATION THE PATIENT CARE SERVICES PROVIDED NOT  
41 ONLY BY REGISTERED PROFESSIONAL NURSES BUT ALSO BY LICENSED PRACTICAL  
42 NURSES, SOCIAL WORKERS AND OTHER HEALTH CARE PERSONNEL.

43 3. "ASSESSMENT TOOL" SHALL MEAN A MEASUREMENT SYSTEM THAT COMPARES THE  
44 STAFFING LEVEL IN EACH NURSING DEPARTMENT OR UNIT AGAINST ACTUAL PATIENT  
45 NURSING CARE REQUIREMENTS IN ORDER TO REVIEW THE ACCURACY OF AN ACUITY  
46 SYSTEM.

47 4. "DIRECT-CARE NURSE" AND "DIRECT-CARE NURSING STAFF" SHALL MEAN ANY  
48 NURSE WHO HAS PRINCIPAL RESPONSIBILITY TO OVERSEE OR CARRY OUT MEDICAL  
49 REGIMENS, NURSING OR OTHER BEDSIDE CARE FOR ONE OR MORE PATIENTS.

50 5. "DOCUMENTED STAFFING PLAN" SHALL MEAN A DETAILED WRITTEN PLAN  
51 SETTING FORTH THE MINIMUM NUMBER AND CLASSIFICATION OF DIRECT-CARE NURS-  
52 ES REQUIRED IN EACH NURSING DEPARTMENT OR UNIT IN AN ACUTE CARE FACILITY  
53 FOR A GIVEN YEAR, BASED ON REASONABLE PROJECTIONS DERIVED FROM THE  
54 PATIENT CENSUS AND AVERAGE ACUITY LEVEL WITHIN EACH DEPARTMENT OR UNIT  
55 DURING THE PRIOR YEAR, THE DEPARTMENT OR UNIT SIZE AND GEOGRAPHY, THE

1 NATURE OF SERVICES PROVIDED AND ANY FORESEEABLE CHANGES IN DEPARTMENT OR  
2 UNIT SIZE OR FUNCTION DURING THE CURRENT YEAR.

3 6. "NURSE" SHALL MEAN A REGISTERED PROFESSIONAL NURSE OR LICENSED  
4 PRACTICAL NURSE LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-NINE OF  
5 THE EDUCATION LAW.

6 7. "NURSING CARE" SHALL MEAN THAT CARE WHICH IS WITHIN THE DEFINITION  
7 OF THE PRACTICE OF NURSING PURSUANT TO SECTION SIXTY-NINE HUNDRED TWO OF  
8 THE EDUCATION LAW, OR OTHERWISE ENCOMPASSED WITH THE RECOGNIZED STAND-  
9 ARDS OF NURSING PRACTICE, INCLUDING ASSESSMENT, NURSING DIAGNOSIS, PLAN-  
10 NING, INTERVENTION, EVALUATION AND PATIENT ADVOCACY.

11 8. "SAFE STAFFING REQUIREMENTS" SHALL MEAN THE PROVISIONS OF SECTIONS  
12 TWENTY-EIGHT HUNDRED TWENTY-THREE-A THROUGH TWENTY-EIGHT HUNDRED THIR-  
13 TY-ONE OF THIS ARTICLE AND ALL RULES AND REGULATIONS ADOPTED PURSUANT  
14 THERETO.

15 9. "SKILL MIX" SHALL MEAN THE DIFFERENCES IN LICENSING, SPECIALTY AND  
16 EXPERIENCE AMONG DIRECT-CARE NURSES.

17 10. "STAFFING LEVEL" SHALL MEAN THE ACTUAL NUMERICAL NURSE TO PATIENT  
18 RATIO WITHIN A NURSING DEPARTMENT OR UNIT.

19 11. "UNIT" SHALL MEAN A PATIENT CARE COMPONENT, AS DEFINED BY THE  
20 DEPARTMENT, WITHIN AN ACUTE CARE FACILITY.

21 12. "NON-NURSING DIRECT-CARE STAFF" SHALL MEAN ANY EMPLOYEE WHO IS NOT  
22 A NURSE OR OTHER PERSON LICENSED, CERTIFIED OR REGISTERED UNDER TITLE  
23 EIGHT OF THE EDUCATION LAW WHOSE PRINCIPAL RESPONSIBILITY IS TO CARRY  
24 OUT PATIENT CARE FOR ONE OR MORE PATIENTS OR PROVIDES DIRECT ASSISTANCE  
25 IN THE DELIVERY OF PATIENT CARE.

26 S 2825. COMMISSIONER AND COUNCIL; POWERS AND DUTIES. THE COMMISSIONER  
27 SHALL:

28 1. APPOINT AN ACUTE CARE FACILITY COUNCIL CONSISTING OF THIRTEEN  
29 MEMBERS. NO LESS THAN SEVEN MEMBERS SHALL BE REGISTERED PROFESSIONAL  
30 NURSES, THREE OF WHOM SHALL BE DIRECT CARE REGISTERED NURSES, THREE OF  
31 WHOM SHALL BE NURSE MANAGERS AND ONE OF WHOM SHALL BE A NURSE ADMINIS-  
32 TRATOR. NO LESS THAN TWO MEMBERS OF THE ACUTE CARE FACILITY COUNCIL  
33 SHALL BE REPRESENTATIVES OF RECOGNIZED OR CERTIFIED COLLECTIVE BARGAIN-  
34 ING AGENTS OF NON-NURSING DIRECT CARE STAFF. THERE SHALL BE AT LEAST TWO  
35 REPRESENTATIVES OF ACUTE CARE FACILITIES, ONE REPRESENTATIVE OF A NURS-  
36 ING PROFESSIONAL ASSOCIATION, AND ONE REPRESENTATIVE OF A RECOGNIZED OR  
37 CERTIFIED BARGAINING AGENT OF NURSES. THE ACUTE CARE FACILITY COUNCIL  
38 SHALL ADVISE THE COMMISSIONER IN THE DEVELOPMENT OF REGULATIONS, INCLUD-  
39 ING REGISTERED PROFESSIONAL NURSE TO PATIENT STAFFING REQUIREMENTS AND  
40 NON-NURSING DIRECT-CARE STAFF TO PATIENT RATIOS THAT ARE NOT SPECIFIED  
41 IN THIS ARTICLE; THE EFFICACY OF ACUITY SYSTEMS SUBMITTED FOR APPROVAL  
42 BY THE COMMISSIONER; THE DEVELOPMENT OF AN ASSESSMENT TOOL USED TO EVAL-  
43 UATE THE EFFICACY OF ACUITY SYSTEMS; AND REVIEW AND MAKE RECOMMENDATIONS  
44 ON APPROVAL OF STAFFING PLANS PRIOR TO THE GRANTING OF AN OPERATING  
45 CERTIFICATE BY THE DEPARTMENT.

46 2. PROMULGATE, AFTER CONSULTATION WITH THE ACUTE CARE FACILITY COUN-  
47 CIL, THE RULES AND REGULATIONS NECESSARY TO CARRY OUT THE PURPOSES AND  
48 PROVISIONS OF THE SAFE STAFFING REQUIREMENTS, INCLUDING REGULATIONS  
49 DEFINING TERMS, SETTING FORTH DIRECT-CARE NURSE TO PATIENT RATIOS,  
50 SETTING FORTH NON-NURSING DIRECT-CARE STAFF TO PATIENT RATIOS AND  
51 PRESCRIBING THE PROCESS FOR APPROVING FACILITY SPECIFIC ACUITY SYSTEMS;  
52 AND

53 3. ASSURE THAT THE PROVISIONS OF SAFE STAFFING REQUIREMENTS ARE  
54 ENFORCED, INCLUDING THE ISSUANCE OF REGULATIONS WHICH AT A MINIMUM  
55 PROVIDE FOR AN ACCESSIBLE AND CONFIDENTIAL SYSTEM TO REPORT THE FAILURE  
56 TO COMPLY WITH SUCH REQUIREMENTS AND PUBLIC ACCESS TO INFORMATION

1 REGARDING REPORTS OF INSPECTIONS, RESULTS, DEFICIENCIES AND CORRECTIONS  
2 PURSUANT TO SUCH REQUIREMENTS.

3 S 2826. STAFFING REQUIREMENTS. 1. STAFFING REQUIREMENTS. EACH ACUTE  
4 CARE FACILITY SHALL ENSURE THAT IT IS STAFFED IN A MANNER THAT PROVIDES  
5 SUFFICIENT, APPROPRIATELY QUALIFIED DIRECT-CARE NURSES IN EACH DEPART-  
6 MENT OR UNIT WITHIN SUCH FACILITY IN ORDER TO MEET THE INDIVIDUALIZED  
7 CARE NEEDS OF THE PATIENTS THEREIN. AT A MINIMUM, EACH SUCH FACILITY  
8 SHALL MEET THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS  
9 SECTION.

10 2. STAFFING PLAN. THE DEPARTMENT SHALL NOT ISSUE AN OPERATING CERTIF-  
11 ICATE TO ANY ACUTE CARE FACILITY UNLESS SUCH FACILITY ANNUALLY SUBMITS  
12 TO THE DEPARTMENT A DOCUMENTED STAFFING PLAN AND A WRITTEN CERTIFICATION  
13 THAT THE SUBMITTED STAFFING PLAN IS SUFFICIENT TO PROVIDE ADEQUATE AND  
14 APPROPRIATE DELIVERY OF HEALTH CARE SERVICES TO PATIENTS FOR THE ENSUING  
15 YEAR. THE DOCUMENTED STAFFING PLAN SHALL:

16 (A) MEET THE MINIMUM REQUIREMENTS SET FORTH IN SUBDIVISION THREE OF  
17 THIS SECTION;

18 (B) BE ADEQUATE TO MEET ANY ADDITIONAL REQUIREMENTS PROVIDED BY OTHER  
19 LAWS, RULES OR REGULATIONS;

20 (C) EMPLOY AND IDENTIFY AN ACUITY SYSTEM FOR ADDRESSING FLUCTUATIONS  
21 IN ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE REQUIREMENTS REQUIRING  
22 INCREASED STAFFING LEVELS ABOVE THE MINIMUMS SET FORTH IN THE PLAN;

23 (D) FACTOR IN OTHER UNIT OR DEPARTMENT ACTIVITY SUCH AS DISCHARGES,  
24 TRANSFERS AND ADMISSIONS, STAFF BREAKS, MEALS, ROUTINE AND EXPECTED  
25 ABSENCES FROM THE UNIT AND ADMINISTRATIVE AND SUPPORT TASKS THAT ARE  
26 EXPECTED TO BE DONE BY DIRECT-CARE NURSES IN ADDITION TO DIRECT NURSING  
27 CARE;

28 (E) INCLUDE A PLAN TO MEET NECESSARY STAFFING LEVELS AND SERVICES  
29 PROVIDED BY NON-NURSING DIRECT-CARE STAFF IN MEETING PATIENT CARE NEEDS  
30 PURSUANT TO SUBDIVISION ONE OF THIS SECTION; PROVIDED, HOWEVER, THAT THE  
31 STAFFING PLAN SHALL NOT INCORPORATE OR ASSUME THAT NURSING CARE FUNC-  
32 TIONS REQUIRED BY LAWS, RULES OR REGULATIONS, OR ACCEPTED STANDARDS OF  
33 PRACTICE TO BE PERFORMED BY A REGISTERED PROFESSIONAL NURSE ARE TO BE  
34 PERFORMED BY OTHER PERSONNEL;

35 (F) IDENTIFY THE SYSTEM THAT WILL BE USED TO DOCUMENT ACTUAL STAFFING  
36 ON A DAILY BASIS WITHIN EACH DEPARTMENT OR UNIT;

37 (G) INCLUDE A WRITTEN ASSESSMENT OF THE ACCURACY OF THE PRIOR YEAR'S  
38 STAFFING PLAN IN LIGHT OF ACTUAL STAFFING NEEDS;

39 (H) IDENTIFY EACH NURSE STAFF CLASSIFICATION REFERENCED IN SUCH PLAN  
40 TOGETHER WITH A STATEMENT SETTING FORTH MINIMUM QUALIFICATIONS FOR EACH  
41 SUCH CLASSIFICATION; AND

42 (I) BE DEVELOPED IN CONSULTATION WITH A MAJORITY OF THE DIRECT-CARE  
43 NURSES WITHIN EACH DEPARTMENT OR UNIT OR, WHERE SUCH NURSES ARE REPRES-  
44 ENTED, WITH THE APPLICABLE RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING  
45 REPRESENTATIVE OR REPRESENTATIVES OF THE DIRECT-CARE NURSES AND OF OTHER  
46 SUPPORTIVE AND ASSISTIVE STAFF.

47 3. MINIMUM STAFFING REQUIREMENTS. (A) THE DOCUMENTED STAFFING PLAN  
48 SHALL INCORPORATE, AT A MINIMUM, THE FOLLOWING DIRECT-CARE NURSE-TO-PA-  
49 TIENT RATIOS:

50 (I) ONE NURSE TO ONE PATIENT: OPERATING ROOM AND TRAUMA EMERGENCY  
51 UNITS AND MATERNAL/CHILD CARE UNITS FOR THE SECOND OR THIRD STAGE OF  
52 LABOR;

53 (II) ONE NURSE TO TWO PATIENTS: MATERNAL/CHILD CARE UNITS FOR THE  
54 FIRST STAGE OF LABOR, AND ALL CRITICAL CARE AREAS INCLUDING EMERGENCY  
55 CRITICAL CARE AND ALL INTENSIVE CARE UNITS AND POSTANESTHESIA UNITS;

1 (III) ONE NURSE TO THREE PATIENTS: ANTEPARTUM, EMERGENCY ROOM, PEDIA-  
2 TRICS, STEP-DOWN AND TELEMETRY UNITS AND UNITS FOR NEWBORNS AND INTERME-  
3 DIATE CARE NURSERY UNITS;

4 (IV) ONE NURSE TO THREE PATIENTS: POSTPARTUM MOTHER/BABY COUPLETS  
5 (MAXIMUM SIX PATIENTS PER NURSE);

6 (V) ONE NURSE TO FOUR PATIENTS: NON-CRITICAL ANTEPARTUM PATIENTS,  
7 POSTPARTUM MOTHER ONLY UNITS AND MEDICAL/SURGICAL AND ACUTE CARE PSYCHI-  
8 ATRIC UNITS;

9 (VI) ONE NURSE TO FIVE PATIENTS: REHABILITATION UNITS AND SUBACUTE  
10 PATIENTS; AND

11 (VII) ONE NURSE TO SIX PATIENTS: WELL-BABY NURSERY UNITS.

12 FOR ANY UNITS NOT LISTED IN THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED  
13 TO, PSYCHIATRIC UNITS, AND ACUTE CARE FACILITIES OPERATED PURSUANT TO  
14 THE MENTAL HYGIENE LAW OR THE CORRECTION LAW, THE DEPARTMENT SHALL  
15 ESTABLISH BY REGULATION THE APPROPRIATE DIRECT-CARE NURSE-TO-PATIENT  
16 RATIO.

17 (B) THE NURSE-TO-PATIENT RATIOS SET FORTH IN PARAGRAPH (A) OF THIS  
18 SUBDIVISION SHALL REFLECT THE MAXIMUM NUMBER OF PATIENTS THAT MAY BE  
19 ASSIGNED TO EACH DIRECT-CARE NURSE IN A UNIT AT ANY ONE TIME.

20 (C) THERE SHALL BE NO AVERAGING OF THE NUMBER OF PATIENTS AND THE  
21 TOTAL NUMBER OF NURSES ON THE UNIT DURING ANY ONE SHIFT NOR OVER ANY  
22 PERIOD OF TIME.

23 (D) THE COMMISSIONER, IN CONSULTATION WITH THE ACUTE CARE FACILITY  
24 COUNCIL, SHALL ESTABLISH REGULATIONS PROVIDING FOR THE MAINTENANCE OF  
25 MINIMUM NURSE-TO-PATIENT RATIOS, AS SET FORTH IN THIS SECTION, INCLUDING  
26 DURING ROUTINE OR EXPECTED ABSENCES FROM THE UNIT, SUCH AS MEALS OR  
27 BREAKS.

28 4. LICENSED PRACTICAL NURSES. IN ANY SITUATION IN WHICH LICENSED PRAC-  
29 TICAL NURSES ARE INCLUDED IN THE DOCUMENTED STAFFING PLAN, ANY PATIENTS  
30 ASSIGNED TO THE LICENSED PRACTICAL NURSE SHALL ALSO BE INCLUDED IN  
31 CALCULATING THE NUMBER OF PATIENTS ASSIGNED TO ANY REGISTERED PROFES-  
32 SIONAL NURSE WHO IS REQUIRED BY LAW, RULE, REGULATION, CONTRACT OR PRAC-  
33 TICE TO SUPERVISE OR OVERSEE THE DIRECT-NURSING CARE PROVIDED BY THE  
34 LICENSED PRACTICAL NURSE.

35 5. SKILL MIX. THE SKILL MIX SHALL NOT INCORPORATE OR ASSUME THAT NURS-  
36 ING CARE FUNCTIONS REQUIRED BY SECTION SIXTY-NINE HUNDRED TWO OF THE  
37 EDUCATION LAW OR ACCEPTED STANDARDS OF PRACTICE TO BE PERFORMED BY A  
38 REGISTERED PROFESSIONAL NURSE ARE TO BE PERFORMED BY A LICENSED PRACTI-  
39 CAL NURSE OR UNLICENSED ASSISTIVE PERSONNEL, OR THAT NURSING CARE FUNC-  
40 TIONS REQUIRED BY SECTION SIXTY-NINE HUNDRED TWO OF THE EDUCATION LAW OR  
41 ACCEPTED STANDARDS OF PRACTICE TO BE PERFORMED BY A LICENSED PRACTICAL  
42 NURSE ARE TO BE PERFORMED BY UNLICENSED ASSISTIVE PERSONNEL.

43 6. ADJUSTMENTS BY FACILITY. THE MINIMUM STAFFING REQUIREMENT AND  
44 NURSE-TO-PATIENT RATIO SET FORTH IN THIS SECTION SHALL BE ADJUSTED BY  
45 THE ACUTE CARE FACILITY AS NECESSARY TO REFLECT THE NEED FOR ADDITIONAL  
46 DIRECT-CARE NURSES. ADDITIONAL STAFF SHALL BE ASSIGNED IN ACCORDANCE  
47 WITH THE APPROVED, FACILITY-SPECIFIC PATIENT ACUITY SYSTEM FOR DETERMIN-  
48 ING NURSING CARE REQUIREMENTS, INCLUDING THE SEVERITY OF THE ILLNESS,  
49 THE NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY, THE COMPLEXITY OF  
50 CLINICAL JUDGMENT NEEDED TO DESIGN, IMPLEMENT AND EVALUATE THE PATIENT  
51 CARE PLAN AND THE ABILITY FOR SELF-CARE, AND THE LICENSURE OF THE  
52 PERSONNEL REQUIRED FOR CARE.

53 7. COMMISSIONER REGULATIONS. THE COMMISSIONER MAY BY REGULATION  
54 REQUIRE A DOCUMENTED STAFFING PLAN TO HAVE HIGHER NURSE-TO-PATIENT  
55 RATIOS THAN THOSE SET FORTH IN THIS SECTION.

1 8. NOTHING CONTAINED IN THIS SECTION SHALL SUPERSEDE OR DIMINISH THE  
2 TERMS OF A COLLECTIVE BARGAINING AGREEMENT THAT PROVIDES FOR STAFFING  
3 RATIOS THAT EXCEED THE RATIOS ESTABLISHED UNDER THIS SECTION.

4 S 2827. COMPLIANCE WITH STAFFING PLAN AND RECORDKEEPING. 1. EACH  
5 ACUTE CARE FACILITY SHALL AT ALL TIMES STAFF IN ACCORDANCE WITH ITS  
6 DOCUMENTED STAFFING PLAN AND THE STAFFING STANDARDS SET FORTH IN SECTION  
7 TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS ARTICLE; PROVIDED, HOWEVER, THAT  
8 NOTHING IN THIS SECTION SHALL BE DEEMED TO PRECLUDE ANY SUCH FACILITY  
9 FROM IMPLEMENTING HIGHER DIRECT-CARE NURSE-TO-PATIENT STAFFING LEVELS,  
10 NOR SHALL THE REQUIREMENTS SET FORTH IN SUCH SECTION TWENTY-EIGHT  
11 HUNDRED TWENTY-SIX OF THIS ARTICLE BE DEEMED TO SUPERSEDE OR REPLACE ANY  
12 HIGHER REQUIREMENTS OTHERWISE MANDATED BY LAW, REGULATION OR CONTRACT.

13 2. FOR PURPOSES OF COMPLIANCE WITH THE MINIMUM STAFFING REQUIREMENTS  
14 STANDARDS SET FORTH IN SECTION TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS  
15 ARTICLE, NO NURSE SHALL BE ASSIGNED, OR INCLUDED IN THE NURSE-TO-PATIENT  
16 RATIO COUNT IN A NURSING UNIT OR A CLINICAL AREA WITHIN AN ACUTE CARE  
17 FACILITY UNLESS THAT NURSE HAS AN APPROPRIATE LICENSE PURSUANT TO ARTI-  
18 CLE ONE HUNDRED THIRTY-NINE OF THE EDUCATION LAW, HAS RECEIVED PRIOR  
19 ORIENTATION IN THAT CLINICAL AREA SUFFICIENT TO PROVIDE COMPETENT NURS-  
20 ING CARE TO THE PATIENTS IN THAT UNIT OR CLINICAL AREA, AND HAS DEMON-  
21 STRATED CURRENT COMPETENCE IN PROVIDING CARE IN THAT UNIT OR CLINICAL  
22 AREA. ACUTE CARE FACILITIES THAT UTILIZE TEMPORARY NURSING AGENCIES  
23 SHALL HAVE AND ADHERE TO A WRITTEN PROCEDURE TO ORIENT AND EVALUATE  
24 PERSONNEL FROM SUCH SOURCES TO ENSURE ADEQUATE ORIENTATION AND COMPETEN-  
25 CY PRIOR TO INCLUSION IN THE NURSE-TO-PATIENT RATIO. IN THE EVENT OF AN  
26 EMERGENCY STAFFING SITUATION IN WHICH INSUFFICIENT STAFFING MAY LEAD TO  
27 UNSAFE PATIENT CARE, NURSES MAY BE TEMPORARILY ASSIGNED TO A DIFFERENT  
28 UNIT OR CLINICAL AREA, PROVIDED THAT SUCH NURSES SHALL BE ASSIGNED  
29 PATIENTS APPROPRIATE TO THEIR SKILL AND COMPETENCY LEVEL. THE FACILITY  
30 SHALL ESTABLISH A CONSISTENT PLAN FOR ADDRESSING EMERGENCY STAFFING  
31 SITUATIONS AND MONITOR OUTCOMES. EMERGENCIES ARE DEFINED AS NATURAL  
32 DISASTERS, DECLARED EMERGENCIES, MASS CASUALTY INCIDENTS OR OTHER EVENTS  
33 NOT REASONABLY ANTICIPATED AND PLANNED FOR AND NOT REGULARLY OCCURRING  
34 WITHIN THE FACILITY.

35 3. EACH ACUTE CARE FACILITY SHALL MAINTAIN ACCURATE DAILY RECORDS  
36 SHOWING:

37 (A) THE NUMBER OF PATIENTS ADMITTED, RELEASED AND PRESENT IN EACH  
38 NURSING DEPARTMENT OR UNIT WITHIN SUCH FACILITY;

39 (B) THE INDIVIDUAL ACUITY LEVEL OF EACH PATIENT PRESENT IN EACH NURS-  
40 ING DEPARTMENT OR UNIT WITHIN SUCH FACILITY; AND

41 (C) THE IDENTITY AND DUTY HOURS OF EACH DIRECT-CARE NURSE IN EACH  
42 NURSING DEPARTMENT OR UNIT WITHIN SUCH FACILITY.

43 4. EACH ACUTE CARE FACILITY SHALL MAINTAIN DAILY STATISTICS, BY NURS-  
44 ING DEPARTMENT AND UNIT, OF MORTALITY, MORBIDITY, INFECTION, ACCIDENT,  
45 INJURY AND MEDICAL ERRORS.

46 5. ALL RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS SECTION SHALL BE  
47 MAINTAINED FOR A PERIOD OF SEVEN YEARS.

48 6. ALL RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS SECTION SHALL BE  
49 MADE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND TO THE PUBLIC;  
50 PROVIDED, HOWEVER, THAT INFORMATION RELEASED TO THE PUBLIC SHALL COMPLY  
51 WITH THE APPLICABLE PATIENT PRIVACY LAWS, RULES AND REGULATIONS, AND  
52 THAT IN FACILITIES OPERATED PURSUANT TO THE CORRECTION LAW THE IDENTITY  
53 AND HOURS OF STAFF SHALL NOT BE RELEASED TO THE PUBLIC.

54 S 2828. WORK ASSIGNMENT POLICY. 1. GENERAL. EACH ACUTE CARE FACILITY  
55 SHALL ADOPT, DISSEMINATE TO DIRECT-CARE NURSES AND COMPLY WITH A WRITTEN  
56 WORK ASSIGNMENT POLICY, THAT MEETS THE REQUIREMENTS OF SUBDIVISIONS TWO

1 AND THREE OF THIS SECTION, DETAILING THE CIRCUMSTANCES UNDER WHICH A  
2 DIRECT-CARE NURSE MAY REFUSE A WORK ASSIGNMENT.

3 2. MINIMUM CONDITIONS. AT A MINIMUM, THE WORK ASSIGNMENT POLICY SHALL  
4 PERMIT A DIRECT-CARE NURSE TO REFUSE AN ASSIGNMENT:

5 (A) FOR WHICH THE NURSE IS NOT PREPARED BY EDUCATION, TRAINING OR  
6 EXPERIENCE TO SAFELY FULFILL THE ASSIGNMENT WITHOUT COMPROMISING OR  
7 JEOPARDIZING PATIENT SAFETY, THE NURSE'S ABILITY TO MEET FORESEEABLE  
8 PATIENT NEEDS OR THE NURSE'S LICENSE; OR

9 (B) WOULD OTHERWISE VIOLATE THE SAFE STAFFING REQUIREMENTS.

10 3. MINIMUM PROCEDURES. AT A MINIMUM, THE WORK ASSIGNMENT POLICY SHALL  
11 CONTAIN PROCEDURES FOR THE FOLLOWING:

12 (A) REASONABLE REQUIREMENTS FOR PRIOR NOTICE TO THE NURSE'S SUPERVISOR  
13 REGARDING THE NURSE'S REQUEST AND SUPPORTING REASONS FOR BEING RELIEVED  
14 OF AN ASSIGNMENT OR CONTINUED DUTY;

15 (B) WHERE FEASIBLE, AN OPPORTUNITY FOR THE SUPERVISOR TO REVIEW THE  
16 SPECIFIC CONDITIONS SUPPORTING THE NURSE'S REQUEST, AND TO DECIDE WHETH-  
17 ER TO REMEDY THE CONDITIONS, TO RELIEVE THE NURSE OF THE ASSIGNMENT, OR  
18 TO DENY THE NURSE'S REQUEST TO BE RELIEVED OF THE ASSIGNMENT OR CONTIN-  
19 UED DUTY;

20 (C) A PROCESS THAT PERMITS THE NURSE TO EXERCISE THE RIGHT TO REFUSE  
21 THE ASSIGNMENT OR CONTINUED ON-DUTY STATUS WHEN THE SUPERVISOR DENIES  
22 THE REQUEST TO BE RELIEVED IF:

23 (I) THE SUPERVISOR REJECTS THE REQUEST WITHOUT PROPOSING A REMEDY OR  
24 THE PROPOSED REMEDY WOULD BE INADEQUATE OR UNTIMELY,

25 (II) THE COMPLAINT AND INVESTIGATION PROCESS WITH A REGULATORY AGENCY  
26 WOULD BE UNTIMELY TO ADDRESS THE CONCERN, AND

27 (III) THE EMPLOYEE IN GOOD FAITH BELIEVES THAT THE ASSIGNMENT MEETS  
28 CONDITIONS JUSTIFYING REFUSAL; AND

29 (D) RECOGNITION THAT A NURSE WHO REFUSES AN ASSIGNMENT PURSUANT TO A  
30 WORK ASSIGNMENT POLICY AS SET FORTH IN THIS SECTION SHALL NOT BE DEEMED,  
31 BY REASON THEREOF, TO HAVE ENGAGED IN NEGLIGENT OR INCOMPETENT ACTION,  
32 PATIENT ABANDONMENT, OR OTHERWISE TO HAVE VIOLATED ANY LAW RELATING TO  
33 NURSING.

34 S 2829. PUBLIC DISCLOSURE OF STAFFING REQUIREMENTS. EVERY ACUTE CARE  
35 FACILITY SHALL:

36 1. POST IN A CONSPICUOUS PLACE READILY ACCESSIBLE TO THE GENERAL  
37 PUBLIC A NOTICE PREPARED BY THE DEPARTMENT SETTING FORTH A SUMMARY OF  
38 THE SAFE STAFFING REQUIREMENTS APPLICABLE TO THAT FACILITY TOGETHER WITH  
39 INFORMATION ABOUT WHERE DETAILED INFORMATION ABOUT THE FACILITY'S STAFF-  
40 ING PLAN AND ACTUAL STAFFING MAY BE OBTAINED;

41 2. UPON REQUEST, MAKE COPIES OF THE DOCUMENTED STAFFING PLAN FILED  
42 WITH THE DEPARTMENT AVAILABLE TO THE PUBLIC; AND

43 3. UPON REQUEST MAKE READILY AVAILABLE TO THE NURSING STAFF WITHIN A  
44 DEPARTMENT OR UNIT, DURING EACH WORK SHIFT, THE FOLLOWING INFORMATION:

45 (A) A COPY OF THE CURRENT STAFFING PLAN FOR THAT DEPARTMENT OR UNIT,

46 (B) DOCUMENTATION OF THE NUMBER OF DIRECT-CARE NURSES REQUIRED TO BE  
47 PRESENT DURING THE SHIFT, BASED ON THE APPROVED ADOPTED ACUITY SYSTEM,  
48 AND

49 (C) DOCUMENTATION OF THE ACTUAL NUMBER OF DIRECT-CARE NURSES PRESENT  
50 DURING THE SHIFT.

51 S 2830. ENFORCEMENT RESPONSIBILITIES. THE DEPARTMENT SHALL NOT DELE-  
52 GATE ITS RESPONSIBILITIES TO ENFORCE THE SAFE STAFFING REQUIREMENTS  
53 PROMULGATED PURSUANT TO THIS ARTICLE.

54 S 2831. PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF SECTION TWENTY-EIGHT  
55 HUNDRED TWENTY-EIGHT OF THIS ARTICLE. ANY ACUTE CARE FACILITY THAT  
56 VIOLATES THE RIGHTS OF AN EMPLOYEE PURSUANT TO AN ADOPTED WORK ASSIGN-

1 MENT POLICY UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-EIGHT OF THIS  
2 ARTICLE MAY BE HELD LIABLE TO SUCH EMPLOYEE IN AN ACTION BROUGHT IN A  
3 COURT OF COMPETENT JURISDICTION FOR SUCH LEGAL OR EQUITABLE RELIEF AS  
4 MAY BE APPROPRIATE TO EFFECTUATE THE PURPOSES OF THE SAFE STAFFING  
5 REQUIREMENTS, INCLUDING BUT NOT LIMITED TO REINSTATEMENT, PROMOTION,  
6 LOST WAGES AND BENEFITS, AND COMPENSATORY AND CONSEQUENTIAL DAMAGES  
7 RESULTING FROM THE VIOLATION TOGETHER WITH AN EQUAL AMOUNT IN LIQUIDATED  
8 DAMAGES. THE COURT IN SUCH ACTION SHALL, IN ADDITION TO ANY JUDGMENT  
9 AWARDED TO A PREVAILING PLAINTIFF, AWARD REASONABLE ATTORNEYS' FEES AND  
10 COSTS OF ACTION TO BE PAID BY THE DEFENDANT. AN EMPLOYEE'S RIGHT TO  
11 INSTITUTE A PRIVATE ACTION PURSUANT TO THIS SUBDIVISION SHALL NOT BE  
12 LIMITED BY ANY OTHER RIGHT GRANTED BY THE SAFE STAFFING REQUIREMENTS.

13 S 4. Section 2801-a of the public health law is amended by adding a  
14 new subdivision 3-b to read as follows:

15 3-B. IN CONSIDERING CHARACTER, COMPETENCE AND STANDING IN THE COMMUNI-  
16 TY UNDER SUBDIVISION THREE OF THIS SECTION, THE PUBLIC HEALTH AND HEALTH  
17 PLANNING COUNCIL SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL  
18 RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS,  
19 WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRAC-  
20 TICES, OBLIGATIONS OR IMPERATIVES. THE PUBLIC HEALTH AND HEALTH PLANNING  
21 COUNCIL SHALL GIVE SUBSTANTIAL WEIGHT TO VIOLATIONS OF THE PROVISIONS OF  
22 THIS CHAPTER CONCERNING NURSE STAFF AND SUPPORTIVE STAFF RATIOS.

23 S 5. Section 2805 of the public health law is amended by adding a new  
24 subdivision 3 to read as follows:

25 3. IN DETERMINING WHETHER TO ISSUE OR RENEW AN OPERATING CERTIFICATE  
26 TO AN APPLICANT SEEKING TO OPERATE, OR OPERATING, A HOSPITAL IN ACCORD-  
27 ANCE WITH THIS ARTICLE, THE COMMISSIONER SHALL CONSIDER ANY PAST  
28 VIOLATIONS OF STATE OR FEDERAL RULES, REGULATIONS OR STATUTES RELATING  
29 TO EMPLOYER-EMPLOYEE RELATIONS, WORKPLACE SAFETY, COLLECTIVE BARGAINING  
30 OR ANY OTHER LABOR RELATED PRACTICES, OBLIGATIONS OR IMPERATIVES. THE  
31 PUBLIC HEALTH AND HEALTH PLANNING COUNCIL SHALL GIVE SUBSTANTIAL WEIGHT  
32 TO VIOLATIONS OF THE PROVISIONS OF THIS CHAPTER CONCERNING NURSE STAFF  
33 AND SUPPORTIVE STAFF RATIOS.

34 S 6. The public health law is amended by adding a new section 2895-b  
35 to read as follows:

36 S 2895-B. RESIDENTIAL HEALTH CARE FACILITY STAFFING LEVELS. 1. DEFINI-  
37 TIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE  
38 FOLLOWING MEANINGS:

39 (A) "CERTIFIED NURSE AIDE" MEANS ANY PERSON INCLUDED IN THE RESIDEN-  
40 TIAL HEALTH CARE FACILITY NURSE AIDE REGISTRY PURSUANT TO SECTION TWEN-  
41 TY-EIGHT HUNDRED THREE-J OF THIS CHAPTER.

42 (B) "STAFFING RATIO" MEANS THE QUOTIENT OF THE NUMBER OF PERSONNEL IN  
43 A PARTICULAR CATEGORY REGULARLY ON DUTY FOR A PARTICULAR TIME PERIOD IN  
44 A NURSING HOME DIVIDED BY THE NUMBER OF RESIDENTS OF THE NURSING HOME AT  
45 THAT TIME.

46 2. COMMISSIONER AND RESIDENTIAL HEALTH CARE FACILITY COUNCIL; POWERS  
47 AND DUTIES. THE COMMISSIONER SHALL: APPOINT A RESIDENTIAL HEALTH CARE  
48 FACILITY COUNCIL CONSISTING OF THIRTEEN MEMBERS. NO LESS THAN TWO  
49 MEMBERS SHALL BE DIRECT CARE LICENSED PRACTICAL NURSES, NO LESS THAN  
50 TWO MEMBERS SHALL BE DIRECT CARE CERTIFIED NURSE ASSISTANTS AND NO LESS  
51 THAN ONE MEMBER SHALL BE A DIRECT CARE REGISTERED PROFESSIONAL NURSE.  
52 THE COUNCIL SHALL ALSO INCLUDE NO LESS THAN ONE REPRESENTATIVE EACH OF  
53 RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING AGENTS OF REGISTERED NURS-  
54 ES, OF NON-REGISTERED NURSE DIRECT CARE STAFF AND A REPRESENTATIVE OF  
55 NURSING PROFESSIONAL ASSOCIATIONS. THE COUNCIL SHALL ALSO INCLUDE NO  
56 LESS THAN TWO REPRESENTATIVES OF RESIDENTIAL HEALTH CARE FACILITY OPERA-



1 TORS, TWO REPRESENTATIVES OF RESIDENTIAL HEALTH CARE FACILITY NURSE  
2 ADMINISTRATORS AND ONE REPRESENTATIVE OF CONSUMERS. THE RESIDENTIAL  
3 HEALTH CARE FACILITY COUNCIL SHALL ADVISE THE COMMISSIONER IN THE DEVEL-  
4 OPMENT OF REGULATIONS RELATING TO THE STAFFING STANDARDS UNDER THIS  
5 SECTION; AND MAY FROM TIME TO TIME, REPORT TO THE GOVERNOR, THE LEGISLA-  
6 TURE, THE PUBLIC AND THE COMMISSIONER ANY RECOMMENDATIONS REGARDING  
7 STAFFING LEVELS IN RESIDENTIAL HEALTH CARE FACILITIES.

8 3. STAFFING STANDARDS. (A) THE COMMISSIONER, IN CONSULTATION WITH THE  
9 COUNCIL, SHALL, BY REGULATION, ESTABLISH STAFFING STANDARDS FOR RESIDEN-  
10 TIAL HEALTH CARE FACILITY MINIMUM STAFFING LEVELS TO MEET APPLICABLE  
11 STANDARDS OF SERVICE AND CARE AND TO PROVIDE SERVICES TO ATTAIN OR MAIN-  
12 TAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BE-  
13 ING OF EACH RESIDENT OF THE FACILITY. THE COMMISSIONER SHALL ALSO  
14 REQUIRE BY REGULATION THAT EVERY RESIDENTIAL HEALTH CARE FACILITY MAIN-  
15 TAIN RECORDS ON ITS STAFFING LEVELS, REPORT ON SUCH RECORDS TO THE  
16 DEPARTMENT, AND MAKE SUCH RECORDS AVAILABLE FOR INSPECTION BY THE  
17 DEPARTMENT.

18 (B) EVERY RESIDENTIAL HEALTH CARE FACILITY SHALL:

19 (I) COMPLY WITH THE STAFFING STANDARDS UNDER THIS SECTION; AND

20 (II) EMPLOY SUFFICIENT STAFFING LEVELS TO MEET APPLICABLE STANDARDS OF  
21 SERVICE AND CARE AND TO PROVIDE SERVICE AND CARE AND TO PROVIDE SERVICES  
22 TO ATTAIN OR MAINTAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL, AND  
23 PSYCHOSOCIAL WELL-BEING OF EACH RESIDENT OF THE FACILITY.

24 (C) SUBJECT TO SUBDIVISION FIVE OF THIS SECTION, STAFFING STANDARDS  
25 UNDER THIS SECTION SHALL, AT A MINIMUM, BE THE STAFFING STANDARDS UNDER  
26 SUBDIVISION FOUR OF THIS SECTION.

27 (D) IN DETERMINING COMPLIANCE WITH THE STAFFING STANDARDS UNDER THIS  
28 SECTION, AN INDIVIDUAL SHALL NOT BE COUNTED WHILE PERFORMING SERVICES  
29 THAT ARE NOT DIRECT NURSING CARE, SUCH AS ADMINISTRATIVE SERVICES, FOOD  
30 PREPARATION, HOUSEKEEPING, LAUNDRY, MAINTENANCE SERVICES, OR OTHER  
31 ACTIVITIES THAT ARE NOT DIRECT NURSING CARE.

32 4. STATUTORY STANDARD. BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE  
33 OF THIS SECTION, EVERY RESIDENTIAL HEALTH CARE FACILITY SHALL MAINTAIN A  
34 STAFFING RATIO EQUAL TO AT LEAST THE FOLLOWING:

35 (A) 2.8 HOURS OF CARE PER RESIDENT PER DAY BY A CERTIFIED NURSE AIDE;

36 (B) 1.3 HOURS OF CARE PER RESIDENT PER DAY BY A LICENSED PRACTICAL  
37 NURSE OR A REGISTERED NURSE;

38 (C) 0.75 HOURS OF CARE PER RESIDENT PER DAY BY A REGISTERED NURSE; THE  
39 MINIMUM OF 0.75 HOURS OF CARE PER RESIDENT PROVIDED BY A REGISTERED  
40 NURSE SHALL BE DIVIDED AMONG ALL SHIFTS TO ENSURE AN APPROPRIATE LEVEL  
41 OF REGISTERED NURSE CARE TWENTY-FOUR HOURS PER DAY, SEVEN DAYS A WEEK,  
42 TO MEET RESIDENT NEEDS; AND

43 (D) RESIDENTIAL HEALTH CARE FACILITIES THAT CARE FOR SUBACUTE PATIENTS  
44 SHALL MAINTAIN AT A MINIMUM, THE FOLLOWING DIRECT-CARE NURSE-TO-PATIENT  
45 RATIO: ONE NURSE TO FIVE PATIENTS.

46 5. ANY RESIDENTIAL HEALTH CARE FACILITY THAT VIOLATES THE RIGHTS OF  
47 AN EMPLOYEE PURSUANT TO AN ADOPTED WORK ASSIGNMENT POLICY UNDER THIS  
48 SECTION MAY BE HELD LIABLE TO SUCH EMPLOYEE IN AN ACTION BROUGHT IN A  
49 COURT OF COMPETENT JURISDICTION FOR SUCH LEGAL OR EQUITABLE RELIEF AS  
50 MAY BE APPROPRIATE TO EFFECTUATE THE PURPOSES OF THE SAFE STAFFING  
51 REQUIREMENTS, INCLUDING BUT NOT LIMITED TO REINSTATEMENT, PROMOTION,  
52 LOST WAGES AND BENEFITS, AND COMPENSATORY AND CONSEQUENTIAL DAMAGES  
53 RESULTING FROM THE VIOLATION TOGETHER WITH AN EQUAL AMOUNT IN LIQUIDATED  
54 DAMAGES. THE COURT IN SUCH ACTION SHALL, IN ADDITION TO ANY JUDGMENT  
55 AWARDED TO A PREVAILING PLAINTIFF, AWARD REASONABLE ATTORNEYS' FEES AND  
56 COSTS OF ACTION TO BE PAID BY THE DEFENDANT. AN EMPLOYEE'S RIGHT TO

1 INSTITUTE A PRIVATE ACTION PURSUANT TO THIS SUBDIVISION SHALL NOT BE  
2 LIMITED BY ANY OTHER RIGHT GRANTED BY THE SAFE STAFFING REQUIREMENTS.

3 6. PUBLIC DISCLOSURE OF STAFFING LEVELS. (A) A RESIDENTIAL HEALTH CARE  
4 FACILITY SHALL POST INFORMATION REGARDING NURSE STAFFING THAT THE FACIL-  
5 ITY IS REQUIRED TO MAKE AVAILABLE TO THE PUBLIC UNDER SECTION  
6 TWENTY-EIGHT HUNDRED FIVE-T OF THIS CHAPTER. INFORMATION UNDER THIS  
7 PARAGRAPH SHALL BE DISPLAYED IN A FORM APPROVED BY THE DEPARTMENT AND BE  
8 POSTED IN A MANNER WHICH IS VISIBLE AND ACCESSIBLE TO RESIDENTS, THEIR  
9 FAMILIES AND THE STAFF, AS REQUIRED BY THE COMMISSIONER.

10 (B) A RESIDENTIAL HEALTH CARE FACILITY SHALL POST A SUMMARY OF THIS  
11 SECTION, PROVIDED BY THE DEPARTMENT, IN PROXIMITY TO EACH POSTING  
12 REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION.

13 S 7. If any provision of this act, or any application of any provision  
14 of this act, is held to be invalid, or ruled by any federal agency to  
15 violate or be inconsistent with any applicable federal law or regu-  
16 lation, that shall not affect the validity or effectiveness of any other  
17 provision of this act, or of any other application of any provision of  
18 this act.

19 S 8. This act shall take effect on the one hundred eightieth day after  
20 it shall have become a law, provided that any rules and regulations, and  
21 any other actions necessary to implement the provisions of this act on  
22 its effective date are authorized and directed to be completed on or  
23 before such date.