S T A T E O F N E W Y O R K

2735

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. BRENNAN, JOHN, JAFFEE, BOYLAND, SCHROEDER -- Multi-Sponsored by -- M. of A. COLTON, HOOPER, JACOBS, LUPARDO, MENG, PERRY, PHEFFER, WRIGHT -- read once and referred to the Committee on Mental Health, Mental Retardation and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to establishing minimum staffing ratios in facilities operated under the jurisdiction of the office of mental health

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

Section 1. The mental hygiene law is amended by adding a new section 7.43 to read as follows:

S 7.43 MINIMUM STAFFING RATIOS.

(A) AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "SHORT STAY PATIENT" SHALL MEAN A DIRECT ADMISSION OR INDIRECT ADMISSION PATIENT WITHIN A FACILITY UNDER THE JURISDICTION OF THE OFFICE.

2. "SPECIALIZED CARE PATIENT" SHALL MEAN A PATIENT, WITHIN A FACILITY OPERATED UNDER THE JURISDICTION OF THE OFFICE, RECEIVING ANY ONE OR COMBINATION OF SECURE CARE SERVICES, INFIRMARY SERVICES, DEAFNESS SERVICES OR INTENSIVE REHABILITATIVE SERVICES. FOR THE PURPOSES OF CLASSIFICATION, MULTIPLY DISABLED PATIENTS OR PATIENTS REFERRED TO A FACILITY BY THE DEPARTMENT OF CORRECTIONS, THE OFFICE OF CHILDREN AND FAMILY SERVICES OR BY COURT ORDER SHALL ALSO BE DESIGNATED AS SPECIALIZED CARE PATIENTS.

3. "EXTENDED CARE PATIENT" SHALL MEAN A PATIENT, WITHIN A FACILITY OPERATED UNDER THE JURISDICTION OF THE OFFICE, RECEIVING GERIATRIC CARE OR REHABILITATIVE CARE.

4. "SHORT STAY UNIT" SHALL BE A UNIT, OPERATED WITHIN A FACILITY UNDER THE JURISDICTION OF THE OFFICE, THAT INCLUDES AT LEAST ONE SHORT STAY PATIENT AS DEFINED IN PARAGRAPH ONE OF THIS SUBDIVISION.

5. "SPECIALIZED CARE UNIT" SHALL BE A UNIT, OPERATED WITHIN A FACILITY UNDER THE JURISDICTION OF THE OFFICE, THAT INCLUDES AT LEAST ONE

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

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SPECIALIZED CARE PATIENT, AS DEFINED IN PARAGRAPH TWO OF THIS SUBDIVISION.

6. "EXTENDED CARE UNIT" SHALL BE A UNIT OPERATED WITHIN A FACILITY UNDER THE JURISDICTION OF THE OFFICE THAT INCLUDES AT LEAST ONE EXTENDED CARE PATIENT AS DEFINED IN PARAGRAPH THREE OF THIS SUBDIVISION.

7. "DIRECT CARE WORKFORCE" SHALL INCLUDE THE DISCIPLINES OF LICENSED PRACTICAL NURSE, SUPERVISING LICENSED PRACTICAL NURSE, MENTAL HEALTH THERAPY AIDE, MENTAL HYGIENE THERAPY ASSISTANT I, MENTAL HYGIENE THERAPY ASSISTANT II, MENTAL HYGIENE WARD AIDE, SECURE CARE TREATMENT AIDE I, SECURE CARE TREATMENT AIDE II, REGISTERED NURSE, PHYSICIAN, PSYCHIATRIST, PSYCHOLOGIST, SOCIAL WORKER, RECREATION THERAPIST, AND REHABILITATION COUNSELOR.

8. "STAFFING RATIO" SHALL MEAN THE RATIO OF DIRECT CARE EMPLOYEES TO THE ACTUAL NUMBER OF PATIENTS WITHIN A SHORT STAY UNIT, SPECIALIZED CARE UNIT OR EXTENDED CARE UNIT. FOR THE PURPOSES OF DETERMINING STAFFING RATIOS PURSUANT TO THIS SECTION, "DIRECT CARE EMPLOYEE" SHALL INCLUDE TWO CATEGORIES. CATEGORY ONE SHALL INCLUDE THE TITLES OF LICENSED PRACTICAL NURSE, SUPERVISING LICENSED PRACTICAL NURSE, MENTAL HEALTH THERAPY AIDE, MENTAL HYGIENE THERAPY ASSISTANT I, MENTAL HYGIENE THERAPY ASSISTANT II, MENTAL HYGIENE WARD AIDE, SECURE CARE TREATMENT AIDE I, SECURE CARE TREATMENT AIDE II. CATEGORY TWO SHALL INCLUDE THE DISCIPLINES OF PHYSICIAN, PSYCHIATRIST, PSYCHOLOGIST, SOCIAL WORKER, REGISTERED NURSE, RECREATION THERAPIST, AND REHABILITATION COUNSELOR.

(B) FOR THE PURPOSES OF ESTABLISHING STAFFING RATIOS, EVERY PATIENT WITHIN A FACILITY OPERATED UNDER THE JURISDICTION OF THE OFFICE SHALL BE CLASSIFIED AS A SHORT STAY, SPECIALIZED CARE OR EXTENDED CARE PATIENT, AND ASSIGNED TO A CORRESPONDING SHORT STAY UNIT, SPECIALIZED CARE UNIT OR EXTENDED CARE UNIT. FOR THE PURPOSES OF CLASSIFICATION, THE CHARACTERISTICS OF THE PATIENTS NEEDING THE MOST INTENSIVE CARE SHALL BE UTILIZED IN DETERMINING THE CLASSIFICATION OF THE ENTIRE UNIT. NOTHING HEREIN SHALL BE CONSTRUED TO DIMINISH OR CHANGE THE ABILITY OF THE OFFICE TO DETERMINE APPROPRIATE TREATMENT, DIAGNOSIS, ADMISSION PROCEDURES OR PLACEMENT WITHIN A FACILITY FOR ANY PATIENTS.

(C) 1. ANY UNIT WHICH IS CLASSIFIED AS A SHORT STAY UNIT OR AN EXTENDED CARE UNIT SHALL MAINTAIN A STAFF TO PATIENT RATIO OF NO LESS THAN 1.2 TO 1 FOR CATEGORY ONE EMPLOYEES AND A RATIO OF .4 TO 1 FOR CATEGORY TWO EMPLOYEES AND SHALL BE LIMITED TO TWENTY-FIVE PATIENTS.

2. ANY UNIT WHICH IS CLASSIFIED AS A SPECIALIZED CARE UNIT SHALL MAINTAIN A STAFF TO PATIENT RATIO OF NO LESS THAN 1.6 TO 1 FOR CATEGORY ONE EMPLOYEES AND A RATIO OF .6 TO 1 FOR CATEGORY TWO EMPLOYEES AND SHALL BE LIMITED TO TWENTY PATIENTS.

3. NOTHING HEREIN SHALL BE CONSTRUED TO PREVENT THE OFFICE FROM RAISING THE STAFFING LEVELS DUE TO THE ACUITY LEVEL OF EACH WARD.

(D) THE OFFICE SHALL, AT LEAST ONCE EVERY QUARTER, PUBLISH THE STAFFING RATIOS OF EACH FACILITY UNDER ITS JURISDICTION. SUCH PUBLICATION SHALL INCLUDE THE NUMBER OF PATIENTS WITHIN EACH UNIT, THE SPECIFIC CLASSIFICATION OF EACH PATIENT, AND THE SPECIFIC TITLES OF DIRECT CARE STAFF ASSIGNED TO SUCH UNIT. SUCH PUBLICATION SHALL ALSO INCLUDE A COMPARISON OF THE CURRENT STAFFING RATIOS TO THE PREVIOUS QUARTER'S STAFFING RATIOS. THE FIRST SUCH PUBLICATION SHALL BE SUBMITTED TO THE GOVERNOR AND THE CHAIRPERSONS OF THE SENATE AND ASSEMBLY MENTAL HEALTH COMMITTEES ON OR BEFORE JANUARY FIRST, TWO THOUSAND NINE. SUCH PUBLICATIONS SHALL BE SUBMITTED QUARTERLY THEREAFTER.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.