

1718

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. GOTTFRIED, GUNTHER, P. RIVERA, BRADLEY, MILLMAN, TITONE, COOK, JACOBS, PEOPLES, JOHN, TITUS, EDDINGTON, COLTON, PAULIN, SCARBOROUGH -- Multi-Sponsored by -- M. of A. ALESSI, BENEDETTO, BING, BOYLAND, BRENNAN, CLARK, DESTITO, FIELDS, GLICK, HEASTIE, HOOPER, HYER-SPENCER, JAFFEE, JEFFRIES, LIFTON, MAISEL, MCENENY, PERRY, PHEFFER, J. RIVERA, ROBINSON, ROSENTHAL, SCHIMEL, STIRPE, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to nursing home staffing levels

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

1 Section 1. The public health law is amended by adding a new section
2 2895-b to read as follows:
3 S 2895-B. NURSING HOME STAFFING LEVELS. 1. DEFINITIONS. AS USED IN
4 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "ADVISORY COUNCIL" MEANS THE ADVISORY COUNCIL ON NURSING HOME
6 STAFFING CREATED IN SUBDIVISION TWO OF THIS SECTION.
7 (B) "CERTIFIED NURSE AIDE" MEANS ANY PERSON INCLUDED IN THE NURSING
8 HOME NURSE AIDE REGISTRY PURSUANT TO SECTION TWENTY-EIGHT HUNDRED
9 THREE-J OF THIS CHAPTER.
10 (C) "STAFFING RATIO" MEANS THE QUOTIENT OF THE NUMBER OF PERSONNEL IN
11 A PARTICULAR CATEGORY REGULARLY ON DUTY FOR A PARTICULAR TIME PERIOD IN
12 A NURSING HOME DIVIDED BY THE NUMBER OF RESIDENTS OF THE NURSING HOME AT
13 THAT TIME.
14 2. ADVISORY COUNCIL ON NURSING HOME STAFFING. THERE IS HEREBY CREATED
15 IN THE DEPARTMENT AN ADVISORY COUNCIL ON NURSING HOME STAFFING TO STUDY
16 AND MAKE RECOMMENDATIONS RELATING TO THE STAFFING STANDARDS UNDER THIS
17 SECTION. THE ADVISORY COUNCIL SHALL BE APPOINTED BY THE COMMISSIONER AND
18 SHALL BE COMPOSED OF REPRESENTATIVES OF NURSING HOME OPERATORS, CONSUM-
19 ERS, AND NON-ADMINISTRATIVE NURSING HOME EMPLOYEES AND THE PUBLIC. THE
20 ADVISORY COUNCIL SHALL, FROM TIME TO TIME, REPORT TO THE GOVERNOR, THE

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

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1 LEGISLATURE, THE PUBLIC AND THE COMMISSIONER ANY RECOMMENDATIONS REGARD-
2 ING STAFFING LEVELS IN NURSING HOMES.

3 3. STAFFING STANDARDS. (A) THE COMMISSIONER, IN CONSULTATION WITH THE
4 ADVISORY COUNCIL, SHALL, BY REGULATION, ESTABLISH STAFFING STANDARDS FOR
5 NURSING HOME MINIMUM STAFFING LEVELS TO MEET APPLICABLE STANDARDS OF
6 SERVICE AND CARE AND TO PROVIDE SERVICES TO ATTAIN OR MAINTAIN THE HIGH-
7 EST PRACTICABLE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BEING OF EACH
8 RESIDENT OF THE NURSING HOME. THE COMMISSIONER SHALL ALSO REQUIRE BY
9 REGULATION THAT EVERY NURSING HOME MAINTAIN RECORDS ON ITS STAFFING
10 LEVELS, REPORT ON SUCH RECORDS TO THE DEPARTMENT, AND MAKE SUCH RECORDS
11 AVAILABLE FOR INSPECTION BY THE DEPARTMENT.

12 (B) EVERY NURSING HOME SHALL:

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

14 (II) EMPLOY SUFFICIENT STAFFING LEVELS TO MEET APPLICABLE STANDARDS OF
15 SERVICE AND CARE AND TO PROVIDE SERVICE AND CARE AND TO PROVIDE SERVICES
16 TO ATTAIN OR MAINTAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL, AND
17 PSYCHOSOCIAL WELL-BEING OF EACH RESIDENT OF THE NURSING HOME.

18 (C) SUBJECT TO SUBDIVISION FIVE OF THIS SECTION, STAFFING STANDARDS
19 UNDER THIS SECTION SHALL, AT A MINIMUM, BE THE STAFFING STANDARDS UNDER
20 SUBDIVISION FOUR OF THIS SECTION.

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

26 4. STATUTORY STANDARD. BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE
27 OF THIS SECTION, EVERY NURSING HOME SHALL MAINTAIN A STAFFING RATIO
28 EQUAL TO AT LEAST THE FOLLOWING:

29 (A) FROM 2.4 TO 2.8 HOURS OF CARE PER RESIDENT PER DAY BY A CERTIFIED
30 NURSE AIDE;

31 (B) FROM 1.15 TO 1.3 HOURS OF CARE PER RESIDENT PER DAY BY A LICENSED
32 PRACTICAL NURSE OR A REGISTERED NURSE; AND

33 (C) FROM 0.55 TO 0.75 HOURS OF CARE PER RESIDENT PER DAY BY A REGIS-
34 TERED NURSE.

35 5. PHASE-IN. (A) THE COMMISSIONER SHALL MAKE THE FIRST REGULATIONS
36 UNDER SUBDIVISION THREE OF THIS SECTION WITHIN ONE YEAR AFTER THIS
37 SECTION BECOMES A LAW.

38 (B) IF THE COMMISSIONER DETERMINES THAT COMPLIANCE WITH THE STATUTORY
39 STANDARD UNDER SUBDIVISION FOUR OF THIS SECTION IS NOT REASONABLY FEASI-
40 BLE FOR NURSING HOMES BY THE TIME SPECIFIED IN THAT SUBDIVISION, THE
41 COMMISSIONER MAY DELAY THE IMPLEMENTATION OF THAT STAFFING STANDARD FOR
42 A PHASE-IN PERIOD NOT TO EXCEED FIVE YEARS AFTER THIS SECTION BECOMES A
43 LAW. IF THE COMMISSIONER DELAYS IMPLEMENTATION OF THAT STAFFING STAND-
44 ARD, THE COMMISSIONER SHALL PHASE IN, OVER THE PHASE-IN PERIOD, STAFF-
45 ING STANDARDS THAT GRADUALLY INCREASE IN EACH OF THE YEARS OF THE
46 PHASE-IN PERIOD UNTIL THE STAFFING STANDARD MEETS AT LEAST THE STATUTORY
47 STANDARD UNDER SUBDIVISION FOUR OF THIS SECTION.

48 6. PUBLIC DISCLOSURE OF STAFFING LEVELS. (A) A NURSING HOME SHALL POST
49 ITS ACTUAL STAFFING LEVELS, ACCORDING TO THE MOST RECENTLY CONCLUDED
50 COST REPORTING PERIOD, BROKEN DOWN BY THE CATEGORIES IN SUBDIVISION
51 THREE OF THIS SECTION. SUCH INFORMATION SHALL BE EXPRESSED IN ACTUAL
52 NUMBERS AND AS STAFFING RATIOS, AND SHALL INCLUDE ADDITIONAL INFORMATION
53 RELATED TO STAFFING STANDARDS UNDER THIS SECTION. INFORMATION UNDER
54 THIS PARAGRAPH SHALL BE DISPLAYED IN A FORM APPROVED BY THE DEPARTMENT
55 AND BE POSTED IN A MANNER WHICH IS VISIBLE AND ACCESSIBLE TO RESIDENTS,
56 THEIR FAMILIES AND THE STAFF, AS REQUIRED BY THE COMMISSIONER.

1 (B) A NURSING HOME SHALL POST A SUMMARY OF THIS SECTION, PROVIDED BY
2 THE DEPARTMENT, IN CLOSE PROXIMITY TO EACH POSTING REQUIRED BY PARAGRAPH
3 (A) OF THIS SUBDIVISION.
4 S 2. This act shall take effect immediately.