

7974

I N S E N A T E

May 27, 2010

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the "safe staffing for quality care act" and to amend the state finance law, in relation to moneys deposited into the improving quality of patient care fund

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 OF THIS ARTICLE, and such other information  
13 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  
16 STAFFING PLAN, rules and by-laws, standards of medical care, and hospi-  
17 tal service are fit and adequate and that the hospital will be operated  
18 in the manner required by this article and rules and regulations there-  
19 under.

20 S 3. The public health law is amended by adding nine new sections  
21 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830 and 2831 to read as  
22 follows:

23 S 2823. POLICY AND PURPOSE. THE LEGISLATURE FINDS AND DECLARES ALL OF  
24 THE FOLLOWING:

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

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

LBD17038-01-0

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

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

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

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

13 1. "ACUTE CARE FACILITY" SHALL MEAN A GENERAL HOSPITAL, AND SHALL ALSO  
14 INCLUDE ANY CHRONIC DISEASE HOSPITAL, MATERNITY HOSPITAL, OUTPATIENT  
15 DEPARTMENT, EMERGENCY CENTER OR SURGICAL CENTER, AND SHALL ALSO INCLUDE  
16 ANY FACILITY THAT PROVIDES HEALTH CARE SERVICES PURSUANT TO THE MENTAL  
17 HYGIENE LAW, ARTICLE NINETEEN-G OF THE EXECUTIVE LAW OR THE CORRECTION  
18 LAW IF SUCH FACILITY IS OPERATED BY THE STATE OR A POLITICAL SUBDIVISION  
19 OF THE STATE OR A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION.

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

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

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

40 5. "DOCUMENTED STAFFING PLAN" SHALL MEAN A DETAILED WRITTEN PLAN  
41 SETTING FORTH THE MINIMUM NUMBER AND CLASSIFICATION OF DIRECT-CARE NURS-  
42 ES REQUIRED IN EACH NURSING DEPARTMENT OR UNIT IN AN ACUTE CARE FACILITY  
43 FOR A GIVEN YEAR, BASED ON REASONABLE PROJECTIONS DERIVED FROM THE  
44 PATIENT CENSUS AND AVERAGE ACUITY LEVEL WITHIN EACH DEPARTMENT OR UNIT  
45 DURING THE PRIOR YEAR, THE DEPARTMENT OR UNIT SIZE AND GEOGRAPHY, THE  
46 NATURE OF SERVICES PROVIDED AND ANY FORESEEABLE CHANGES IN DEPARTMENT OR  
47 UNIT SIZE OR FUNCTION DURING THE CURRENT YEAR.

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

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

1 8. "SAFE STAFFING REQUIREMENTS" SHALL MEAN THE PROVISIONS OF SECTIONS  
2 TWENTY-EIGHT HUNDRED TWENTY-THREE THROUGH TWENTY-EIGHT HUNDRED  
3 THIRTY-ONE OF THIS ARTICLE AND ALL RULES AND REGULATIONS ADOPTED PURSU-  
4 ANT THERETO.

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

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

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

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

16 S 2825. COMMISSIONER AND COUNCIL; POWERS AND DUTIES. THE COMMISSIONER  
17 SHALL:

18 1. PROMULGATE, AFTER CONSULTATION WITH THE COUNCIL, THE RULES AND  
19 REGULATIONS NECESSARY TO CARRY OUT THE PURPOSES AND PROVISIONS OF THE  
20 SAFE STAFFING REQUIREMENTS, INCLUDING REGULATIONS DEFINING TERMS,  
21 SETTING FORTH DIRECT-CARE NURSE TO PATIENT RATIOS, SETTING FORTH  
22 NON-NURSING DIRECT-CARE STAFF TO PATIENT RATIOS AND PRESCRIBING THE  
23 PROCESS FOR APPROVING ACUITY SYSTEMS, WHICH MAY INCLUDE A SYSTEM FOR  
24 CLASS APPROVAL OF ACUITY SYSTEMS; AND

25 2. ASSURE THAT THE PROVISIONS OF SAFE STAFFING REQUIREMENTS ARE  
26 ENFORCED, INCLUDING THE ISSUANCE OF REGULATIONS WHICH AT A MINIMUM  
27 PROVIDE FOR AN ACCESSIBLE AND CONFIDENTIAL SYSTEM TO REPORT THE FAILURE  
28 TO COMPLY WITH SUCH REQUIREMENTS AND PUBLIC ACCESS TO INFORMATION  
29 REGARDING REPORTS OF INSPECTIONS, RESULTS, DEFICIENCIES AND CORRECTIONS  
30 PURSUANT TO SUCH REQUIREMENTS.

31 3. ESTABLISH A COMMITTEE TO ADVISE IN THE DEVELOPMENT OF REGULATIONS,  
32 INCLUDING REGISTERED PROFESSIONAL NURSE TO PATIENT STAFFING REQUIREMENTS  
33 AND NON-NURSING DIRECT-CARE STAFF TO PATIENT RATIOS THAT ARE NOT SPECI-  
34 FIED IN THIS ARTICLE. THE COMMITTEE SHALL ADVISE THE COMMISSIONER ON  
35 THE EFFICACY OF ACUITY SYSTEMS SUBMITTED FOR APPROVAL, AND REVIEW AND  
36 MAKE RECOMMENDATIONS ON APPROVAL OF STAFFING PLANS PRIOR TO THE GRANTING  
37 OF AN OPERATING CERTIFICATE BY THE DEPARTMENT. THE COMMITTEE SHALL HAVE  
38 THIRTEEN MEMBERS. NO LESS THAN SIXTY PERCENT OF THE MEMBERS OF THE  
39 COMMITTEE SHALL BE REGISTERED PROFESSIONAL NURSES. THE COMMITTEE SHALL  
40 INCLUDE REGISTERED PROFESSIONAL NURSE DIRECT CARE PROVIDERS, REPRESEN-  
41 TATIVES OF ACUTE CARE FACILITIES, AND REPRESENTATIVES OF NURSING PROFES-  
42 SIONAL ASSOCIATIONS AND RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING  
43 REPRESENTATIVE OF NURSES AND OF NON-NURSING DIRECT-CARE STAFF. THE  
44 GOVERNOR SHALL APPOINT THE CHAIR AND SIX OTHER MEMBERS, TWO MEMBERS  
45 SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY, ONE MEMBER SHALL BE  
46 APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY, TWO MEMBERS SHALL BE  
47 APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND ONE MEMBER SHALL  
48 BE APPOINTED BY THE MINORITY LEADER OF THE SENATE.

49 S 2826. STAFFING REQUIREMENTS. 1. STAFFING REQUIREMENTS. EACH ACUTE  
50 CARE FACILITY SHALL ENSURE THAT IT IS STAFFED IN A MANNER THAT PROVIDES  
51 SUFFICIENT, APPROPRIATELY QUALIFIED DIRECT-CARE NURSES IN EACH DEPART-  
52 MENT OR UNIT WITHIN SUCH FACILITY IN ORDER TO MEET THE INDIVIDUALIZED  
53 CARE NEEDS OF THE PATIENTS THEREIN. AT A MINIMUM, EACH SUCH FACILITY  
54 SHALL MEET THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS  
55 SECTION.

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

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

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

11 (C) EMPLOY AND IDENTIFY AN APPROVED ACUITY SYSTEM FOR ADDRESSING FLUC-  
12 TUATIONS IN ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE REQUIREMENTS  
13 REQUIRING INCREASED STAFFING LEVELS ABOVE THE MINIMUMS SET FORTH IN THE  
14 PLAN;

15 (D) FACTOR IN OTHER UNIT OR DEPARTMENT ACTIVITY SUCH AS DISCHARGES,  
16 TRANSFERS AND ADMISSIONS, AND ADMINISTRATIVE AND SUPPORT TASKS THAT IS  
17 EXPECTED TO BE DONE BY DIRECT-CARE NURSES IN ADDITION TO DIRECT NURSING  
18 CARE;

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

26 (F) IDENTIFY THE ASSESSMENT TOOL USED TO VALIDATE THE ACUITY SYSTEM  
27 RELIED ON IN THE PLAN;

28 (G) IDENTIFY THE SYSTEM THAT WILL BE USED TO DOCUMENT ACTUAL STAFFING  
29 ON A DAILY BASIS WITHIN EACH DEPARTMENT OR UNIT;

30 (H) INCLUDE A WRITTEN ASSESSMENT OF THE ACCURACY OF THE PRIOR YEAR'S  
31 STAFFING PLAN IN LIGHT OF ACTUAL STAFFING NEEDS;

32 (I) IDENTIFY EACH NURSE STAFF CLASSIFICATION REFERENCED IN SUCH PLAN  
33 TOGETHER WITH A STATEMENT SETTING FORTH MINIMUM QUALIFICATIONS FOR EACH  
34 SUCH CLASSIFICATION; AND

35 (J) BE DEVELOPED IN CONSULTATION WITH A MAJORITY OF THE DIRECT-CARE  
36 NURSES WITHIN EACH DEPARTMENT OR UNIT OR, WHERE SUCH NURSES ARE REPRES-  
37 ENTED, WITH THE APPLICABLE RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING  
38 REPRESENTATIVE OR REPRESENTATIVES OF THE DIRECT-CARE NURSES AND OF OTHER  
39 SUPPORTIVE AND ASSISTIVE STAFF.

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

43 (I) ONE NURSE TO ONE PATIENT: OPERATING ROOM AND TRAUMA EMERGENCY  
44 UNITS AND ALL CRITICAL CARE AREAS INCLUDING EMERGENCY CRITICAL CARE AND  
45 ALL INTENSIVE CARE UNITS AND MATERNAL/CHILD CARE UNITS FOR THE SECOND OR  
46 THIRD STAGE OF LABOR;

47 (II) ONE NURSE TO TWO PATIENTS: MATERNAL/CHILD CARE UNITS FOR THE  
48 FIRST STAGE OF LABOR, AND POSTANESTHESIA UNITS;

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

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

54 (V) ONE NURSE TO FOUR PATIENTS: NON-CRITICAL ANTEPARTUM PATIENTS, AND  
55 MEDICAL/SURGICAL AND ACUTE CARE PSYCHIATRIC UNITS;

56 (VI) ONE NURSE TO FIVE PATIENTS: REHABILITATION UNITS; AND

1 (VII) ONE NURSE TO SIX PATIENTS: WELL-BABY NURSERY UNITS.  
2 FOR ANY UNITS NOT LISTED IN THIS PARAGRAPH, INCLUDING PSYCHIATRIC  
3 UNITS, AND ACUTE CARE FACILITIES OPERATED PURSUANT TO THE MENTAL HYGIENE  
4 LAW OR THE CORRECTION LAW, THE DEPARTMENT SHALL ESTABLISH BY REGULATION  
5 THE APPROPRIATE DIRECT-CARE NURSE-TO-PATIENT RATIO.

6 (B) THE NURSE-TO-PATIENT RATIOS SET FORTH IN PARAGRAPH (A) OF THIS  
7 SUBDIVISION SHALL REFLECT THE MAXIMUM NUMBER OF PATIENTS THAT MAY BE  
8 ASSIGNED TO EACH DIRECT-CARE NURSE IN A UNIT DURING ONE SHIFT. A NURSE,  
9 INCLUDING A NURSE ADMINISTRATOR OR SUPERVISOR, WHO DOES NOT HAVE PRINCIPAL  
10 RESPONSIBILITY AS A DIRECT-CARE NURSE FOR A SPECIFIC PATIENT SHALL  
11 NOT BE INCLUDED IN THE CALCULATION OF THE NURSE-TO-PATIENT RATIO.

12 4. LICENSED PRACTICAL NURSES. IN ANY SITUATION IN WHICH LICENSED PRACTICAL  
13 NURSES ARE INCLUDED IN THE DOCUMENTED STAFFING PLAN, ANY PATIENTS  
14 ASSIGNED TO THE LICENSED PRACTICAL NURSE SHALL ALSO BE INCLUDED IN  
15 CALCULATING THE NUMBER OF PATIENTS ASSIGNED TO ANY REGISTERED PROFESSIONAL  
16 NURSE WHO IS REQUIRED BY LAW, RULE, REGULATION, CONTRACT OR PRACTICE TO  
17 SUPERVISE OR OVERSEE THE DIRECT-NURSING CARE PROVIDED BY THE  
18 LICENSED PRACTICAL NURSE.

19 5. SKILL MIX. THE SKILL MIX SHALL NOT INCORPORATE OR ASSUME THAT NURSING  
20 CARE FUNCTIONS REQUIRED BY SECTION SIXTY-NINE HUNDRED TWO OF THE  
21 EDUCATION LAW OR ACCEPTED STANDARDS OF PRACTICE TO BE PERFORMED BY A  
22 REGISTERED PROFESSIONAL NURSE ARE TO BE PERFORMED BY A LICENSED PRACTICAL  
23 NURSE OR UNLICENSED ASSISTIVE PERSONNEL, OR THAT NURSING CARE FUNCTIONS  
24 REQUIRED BY SECTION SIXTY-NINE HUNDRED TWO OF THE EDUCATION LAW OR  
25 ACCEPTED STANDARDS OF PRACTICE TO BE PERFORMED BY A LICENSED PRACTICAL  
26 NURSE ARE TO BE PERFORMED BY UNLICENSED ASSISTIVE PERSONNEL.

27 6. ADJUSTMENTS. THE MINIMUM STAFFING REQUIREMENT AND NURSE-TO-PATIENT  
28 RATIO SET FORTH IN THIS SECTION SHALL BE ADJUSTED AS NECESSARY TO  
29 REFLECT THE NEED FOR ADDITIONAL DIRECT-CARE NURSES NECESSARY TO ENSURE  
30 ADEQUATE STAFFING OF EACH NURSING DEPARTMENT OR UNIT, IN ACCORDANCE WITH  
31 AN APPROVED ACUITY SYSTEM.

32 7. DEPARTMENT REGULATIONS. NOTHING IN THIS SECTION SHALL BE DEEMED TO  
33 PRECLUDE THE DEPARTMENT BY RULE OR REGULATION FROM ESTABLISHING AND  
34 REQUIRING A DOCUMENTED STAFFING PLAN TO HAVE HIGHER NURSE-TO-PATIENT  
35 RATIOS THAN THOSE SET FORTH IN THIS SECTION.

36 8. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO ALTER, AFFECT  
37 THE VALIDITY OF, MODIFY THE TERMS OF, OR IMPAIR ANY COLLECTIVE BARGAINING  
38 AGREEMENT.

39 S 2827. COMPLIANCE WITH STAFFING PLAN AND RECORDKEEPING. 1. AS A  
40 CONDITION FOR THE MAINTENANCE OF AN OPERATING CERTIFICATE, EACH ACUTE  
41 CARE FACILITY SHALL AT ALL TIMES STAFF IN ACCORDANCE WITH ITS DOCUMENTED  
42 STAFFING PLAN AND THE STAFFING STANDARDS SET FORTH IN SECTION  
43 TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS ARTICLE; PROVIDED, HOWEVER, THAT  
44 NOTHING IN THIS SECTION SHALL BE DEEMED TO PRECLUDE ANY SUCH FACILITY  
45 FROM IMPLEMENTING HIGHER DIRECT-CARE NURSE-TO-PATIENT STAFFING LEVELS,  
46 NOR SHALL THE REQUIREMENTS SET FORTH IN SUCH SECTION TWENTY-EIGHT  
47 HUNDRED TWENTY-SIX OF THIS ARTICLE BE DEEMED TO SUPERSEDE OR REPLACE ANY  
48 HIGHER REQUIREMENTS OTHERWISE MANDATED BY LAW, RULE, REGULATION OR  
49 CONTRACT.

50 2. FOR PURPOSES OF COMPLIANCE WITH THE MINIMUM STAFFING REQUIREMENTS  
51 STANDARDS SET FORTH IN SECTION TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS  
52 ARTICLE, NO NURSE SHALL BE ASSIGNED, OR INCLUDED IN THE NURSE-TO-PATIENT  
53 RATIO COUNT IN A NURSING UNIT OR A CLINICAL AREA WITHIN AN ACUTE CARE  
54 FACILITY UNLESS THAT NURSE HAS AN APPROPRIATE LICENSE PURSUANT TO ARTICLE  
55 ONE HUNDRED THIRTY-NINE OF THE EDUCATION LAW, HAS RECEIVED PRIOR  
56 ORIENTATION IN THAT CLINICAL AREA SUFFICIENT TO PROVIDE COMPETENT NURS-

1 ING CARE TO THE PATIENTS IN THAT UNIT OR CLINICAL AREA, AND HAS DEMON-  
2 STRATED CURRENT COMPETENCE IN PROVIDING CARE IN THAT UNIT OR CLINICAL  
3 AREA. ACUTE CARE FACILITIES THAT UTILIZE TEMPORARY NURSING AGENCIES  
4 SHALL HAVE AND ADHERE TO A WRITTEN PROCEDURE TO ORIENT AND EVALUATE  
5 PERSONNEL FROM SUCH SOURCES TO ENSURE ADEQUATE ORIENTATION AND COMPETEN-  
6 CY PRIOR TO INCLUSION IN THE NURSE-TO-PATIENT RATIO. IN THE EVENT OF AN  
7 EMERGENCY STAFFING SITUATION IN WHICH INSUFFICIENT STAFFING MAY LEAD TO  
8 UNSAFE PATIENT CARE, NURSES MAY BE TEMPORARILY ASSIGNED TO A DIFFERENT  
9 UNIT OR CLINICAL AREA, PROVIDED THAT SUCH NURSES SHALL BE ASSIGNED  
10 PATIENTS APPROPRIATE TO THEIR SKILL AND COMPETENCY LEVEL. THE FACILITY  
11 SHALL ESTABLISH A CONSISTENT PLAN FOR ADDRESSING EMERGENCY STAFFING  
12 SITUATIONS AND MONITOR OUTCOMES. EMERGENCIES ARE DEFINED AS NATURAL  
13 DISASTERS, DECLARED EMERGENCIES, MASS CASUALTY INCIDENTS OR OTHER EVENTS  
14 NOT REASONABLY ANTICIPATED AND PLANNED FOR AND NOT REGULARLY OCCURRING  
15 WITHIN THE FACILITY.

16 3. AS A CONDITION FOR THE MAINTENANCE OF AN OPERATING CERTIFICATE,  
17 EACH ACUTE CARE FACILITY SHALL MAINTAIN ACCURATE DAILY RECORDS SHOWING:

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

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

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

24 4. AS A CONDITION FOR THE MAINTENANCE OF AN OPERATING CERTIFICATE,  
25 EACH ACUTE CARE FACILITY SHALL MAINTAIN DAILY STATISTICS, BY NURSING  
26 DEPARTMENT AND UNIT, OF MORTALITY, MORBIDITY, INFECTION, ACCIDENT, INJU-  
27 RY AND MEDICAL ERRORS.

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

30 6. ALL RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS SECTION SHALL BE  
31 MADE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND TO THE PUBLIC;  
32 PROVIDED, HOWEVER, THAT INFORMATION RELEASED TO THE PUBLIC SHALL COMPLY  
33 WITH THE APPLICABLE PATIENT PRIVACY LAWS, RULES AND REGULATIONS, AND  
34 THAT IN FACILITIES OPERATED PURSUANT TO THE CORRECTION LAW THE IDENTITY  
35 AND HOURS OF STAFF SHALL NOT BE RELEASED TO THE PUBLIC.

36 S 2828. WORK ASSIGNMENT POLICY. 1. GENERAL. AS A CONDITION FOR THE  
37 MAINTENANCE OF AN OPERATING CERTIFICATE, EACH ACUTE CARE FACILITY SHALL  
38 ADOPT, DISSEMINATE TO DIRECT-CARE NURSES AND COMPLY WITH A WRITTEN WORK  
39 ASSIGNMENT POLICY, THAT MEETS THE REQUIREMENTS OF SUBDIVISIONS TWO AND  
40 THREE OF THIS SECTION, DETAILING THE CIRCUMSTANCES UNDER WHICH A  
41 DIRECT-CARE NURSE MAY REFUSE A WORK ASSIGNMENT.

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

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

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

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

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

54 (B) WHERE FEASIBLE, AN OPPORTUNITY FOR THE SUPERVISOR TO REVIEW THE  
55 SPECIFIC CONDITIONS SUPPORTING THE NURSE'S REQUEST, AND TO DECIDE WHETH-  
56 ER TO REMEDY THE CONDITIONS, TO RELIEVE THE NURSE OF THE ASSIGNMENT, OR

1 TO DENY THE NURSE'S REQUEST TO BE RELIEVED OF THE ASSIGNMENT OR CONTIN-  
2 UED DUTY;

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

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

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

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

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

17 S 2829. PUBLIC DISCLOSURE OF STAFFING REQUIREMENTS. EVERY ACUTE CARE  
18 FACILITY SHALL:

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

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

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

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

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

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

34 S 2830. ENFORCEMENT RESPONSIBILITIES. THE DEPARTMENT SHALL NOT DELE-  
35 GATE ITS RESPONSIBILITIES TO ENFORCE THE SAFE STAFFING REQUIREMENTS  
36 PROMULGATED PURSUANT TO THIS ARTICLE.

37 S 2831. ENFORCEMENT AND PENALTIES. 1. CIVIL PENALTY. ANY PERSON,  
38 REGARDLESS OF WHETHER THAT PERSON POSSESSES AN OPERATING CERTIFICATE,  
39 WHO HAS COMMITTED A VIOLATION OF ANY OF THE PROVISIONS OF THE SAFE  
40 STAFFING REQUIREMENTS, INCLUDING FAILURE TO CORRECT A SERIOUS VIOLATION  
41 (AS DEFINED BY REGULATION) WITHIN THE TIME SPECIFIED IN A DEFICIENCY  
42 CITATION, MAY BE ASSESSED A CIVIL PENALTY BY ORDER OF THE DEPARTMENT OF  
43 UP TO FIVE HUNDRED DOLLARS FOR EACH DEFICIENCY FOR EACH DAY THAT EACH  
44 DEFICIENCY CONTINUES; PROVIDED, HOWEVER, THAT AN ACUTE HEALTH CARE  
45 FACILITY THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF SECTION  
46 TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS ARTICLE MAY BE ASSESSED A CIVIL  
47 PENALTY BY ORDER OF THE DEPARTMENT OF UP TO TEN THOUSAND DOLLARS FOR  
48 EACH DAY OF NON-COMPLIANCE. CIVIL PENALTIES SHALL BE COLLECTED FROM THE  
49 DATE SUCH FACILITY RECEIVES NOTICE OF VIOLATION UNTIL THE DATE SUCH  
50 VIOLATION IS CORRECTED.

51 2. CIVIL PENALTY FOR INTERFERENCE WITH REPORTING OBLIGATIONS. ANY  
52 PERSON OR ACUTE CARE FACILITY THAT FAILS TO REPORT OR FALSIFIES INFORMA-  
53 TION, OR COERCES, THREATENS, INTIMIDATES OR OTHERWISE INFLUENCES ANOTH-  
54 ER PERSON TO FAIL TO REPORT OR TO FALSIFY INFORMATION REQUIRED TO BE  
55 REPORTED UNDER THE SAFE STAFFING REQUIREMENTS, MAY BE ASSESSED A CIVIL  
56 PENALTY OF UP TO TEN THOUSAND DOLLARS FOR EACH SUCH INCIDENT.

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

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

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

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

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

37 S 6. Subdivisions 2 and 4 of section 97-aaaa of the state finance law,  
38 as added by chapter 24 of the laws of 2002, are amended to read as  
39 follows:

40 2. Such fund shall consist of all moneys received from civil penalties  
41 assessed in actions commenced pursuant to section seven hundred forty-  
42 one of the labor law AND CIVIL PENALTIES ASSESSED PURSUANT TO SECTION  
43 TWENTY-EIGHT HUNDRED THIRTY-ONE OF THE PUBLIC HEALTH LAW.

44 4. Moneys in the account, following appropriation by the legislature,  
45 shall be expended by the department of health for the purpose of improv-  
46 ing the direct treatment and care of patients in facilities providing  
47 health care services that are licensed pursuant to article twenty-eight  
48 or thirty-six of the public health law or which operate and provide  
49 health care services under the mental hygiene law, the education law, or  
50 the correction law. THE DEPARTMENT SHALL GIVE SUBSTANTIAL WEIGHT TO  
51 FUNDING INITIATIVES TO IMPROVE STAFFING RATIOS IN HEALTH CARE FACILITIES  
52 OR TO REDUCE THE USE OF EXCESSIVE OVERTIME AMONG NURSING STAFF.

53 S 7. The public health law is amended by adding a new section 2895-b  
54 to read as follows:

55 S 2895-B. NURSING HOME STAFFING LEVELS. 1. DEFINITIONS. AS USED IN  
56 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:



1 (A) "ADVISORY COUNCIL" MEANS THE ADVISORY COUNCIL ON NURSING HOME  
2 STAFFING CREATED IN SUBDIVISION TWO OF THIS SECTION.

3 (B) "CERTIFIED NURSE AIDE" MEANS ANY PERSON INCLUDED IN THE NURSING  
4 HOME NURSE AIDE REGISTRY PURSUANT TO SECTION TWENTY-EIGHT HUNDRED  
5 THREE-J OF THIS CHAPTER.

6 (C) "STAFFING RATIO" MEANS THE QUOTIENT OF THE NUMBER OF PERSONNEL IN  
7 A PARTICULAR CATEGORY REGULARLY ON DUTY FOR A PARTICULAR TIME PERIOD IN  
8 A NURSING HOME DIVIDED BY THE NUMBER OF RESIDENTS OF THE NURSING HOME AT  
9 THAT TIME.

10 2. ADVISORY COUNCIL ON NURSING HOME STAFFING. THERE IS HEREBY CREATED  
11 IN THE DEPARTMENT AN ADVISORY COUNCIL ON NURSING HOME STAFFING TO STUDY  
12 AND MAKE RECOMMENDATIONS RELATING TO THE STAFFING STANDARDS UNDER THIS  
13 SECTION. THE ADVISORY COUNCIL SHALL BE APPOINTED BY THE COMMISSIONER AND  
14 SHALL BE COMPOSED OF REPRESENTATIVES OF NURSING HOME OPERATORS, CONSUM-  
15 ERS, AND NON-ADMINISTRATIVE NURSING HOME EMPLOYEES AND THE PUBLIC. THE  
16 ADVISORY COUNCIL SHALL, FROM TIME TO TIME, REPORT TO THE GOVERNOR, THE  
17 LEGISLATURE, THE PUBLIC AND THE COMMISSIONER ANY RECOMMENDATIONS REGARD-  
18 ING STAFFING LEVELS IN NURSING HOMES.

19 3. STAFFING STANDARDS. (A) THE COMMISSIONER, IN CONSULTATION WITH THE  
20 ADVISORY COUNCIL, SHALL, BY REGULATION, ESTABLISH STAFFING STANDARDS FOR  
21 NURSING HOME MINIMUM STAFFING LEVELS TO MEET APPLICABLE STANDARDS OF  
22 SERVICE AND CARE AND TO PROVIDE SERVICES TO ATTAIN OR MAINTAIN THE HIGH-  
23 EST PRACTICABLE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BEING OF EACH  
24 RESIDENT OF THE NURSING HOME. THE COMMISSIONER SHALL ALSO REQUIRE BY  
25 REGULATION THAT EVERY NURSING HOME MAINTAIN RECORDS ON ITS STAFFING  
26 LEVELS, REPORT ON SUCH RECORDS TO THE DEPARTMENT, AND MAKE SUCH RECORDS  
27 AVAILABLE FOR INSPECTION BY THE DEPARTMENT.

28 (B) EVERY NURSING HOME SHALL:

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

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

34 (C) SUBJECT TO SUBDIVISION FIVE OF THIS SECTION, STAFFING STANDARDS  
35 UNDER THIS SECTION SHALL, AT A MINIMUM, BE THE STAFFING STANDARDS UNDER  
36 SUBDIVISION FOUR OF THIS SECTION.

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

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

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

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

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

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

54 (B) IF THE COMMISSIONER DETERMINES THAT COMPLIANCE WITH THE STATUTORY  
55 STANDARD UNDER SUBDIVISION FOUR OF THIS SECTION IS NOT REASONABLY FEASI-  
56 BLE FOR NURSING HOMES BY THE TIME SPECIFIED IN THAT SUBDIVISION, THE

1 COMMISSIONER MAY DELAY THE IMPLEMENTATION OF THAT STAFFING STANDARD FOR  
2 A PHASE-IN PERIOD NOT TO EXCEED FIVE YEARS AFTER THIS SECTION BECOMES A  
3 LAW. IF THE COMMISSIONER DELAYS IMPLEMENTATION OF THAT STAFFING STAND-  
4 ARD, THE COMMISSIONER SHALL PHASE IN, OVER THE PHASE-IN PERIOD, STAFF-  
5 ING STANDARDS THAT GRADUALLY INCREASE IN EACH OF THE YEARS OF THE  
6 PHASE-IN PERIOD UNTIL THE STAFFING STANDARD MEETS AT LEAST THE STATUTORY  
7 STANDARD UNDER SUBDIVISION FOUR OF THIS SECTION.

8 6. PUBLIC DISCLOSURE OF STAFFING LEVELS. (A) A NURSING HOME SHALL POST  
9 INFORMATION REGARDING NURSE STAFFING THAT THE NURSING HOME IS REQUIRED  
10 TO MAKE AVAILABLE TO THE PUBLIC UNDER SECTION TWENTY-EIGHT HUNDRED  
11 FIVE-T OF THIS CHAPTER. INFORMATION UNDER THIS PARAGRAPH SHALL BE  
12 DISPLAYED IN A FORM APPROVED BY THE DEPARTMENT AND BE POSTED IN A MANNER  
13 WHICH IS VISIBLE AND ACCESSIBLE TO RESIDENTS, THEIR FAMILIES AND THE  
14 STAFF, AS REQUIRED BY THE COMMISSIONER.

15 (B) A NURSING HOME SHALL POST A SUMMARY OF THIS SECTION, PROVIDED BY  
16 THE DEPARTMENT, IN CLOSE PROXIMITY TO EACH POSTING REQUIRED BY PARAGRAPH  
17 (A) OF THIS SUBDIVISION.

18 S 8. If any provision of this act, or any application of any provision  
19 of this act, is held to be invalid, or ruled by any federal agency to  
20 violate or be inconsistent with any applicable federal law or regu-  
21 lation, that shall not affect the validity or effectiveness of any other  
22 provision of this act, or of any other application of any provision of  
23 this act.

24 S 9. This act shall take effect on the one hundred eightieth day after  
25 it shall have become a law, provided that any rules and regulations, and  
26 any other actions necessary to implement the provisions of this act on  
27 its effective date are authorized and directed to be completed on or  
28 before such date.