

4553

2011-2012 Regular Sessions

I N   S E N A T E

April 12, 2011

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Introduced by Sen. HANNON -- 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-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  
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:

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

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1 S 2823. POLICY AND PURPOSE. THE LEGISLATURE FINDS AND DECLARES ALL OF  
2 THE FOLLOWING:

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

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

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

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

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

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

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

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

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

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

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

55 7. "NURSING CARE" SHALL MEAN THAT CARE WHICH IS WITHIN THE DEFINITION  
56 OF THE PRACTICE OF NURSING PURSUANT TO SECTION SIXTY-NINE HUNDRED TWO OF

1 THE EDUCATION LAW, OR OTHERWISE ENCOMPASSED WITH THE RECOGNIZED STAND-  
2 ARDS OF NURSING PRACTICE, INCLUDING ASSESSMENT, NURSING DIAGNOSIS, PLAN-  
3 NING, INTERVENTION, EVALUATION AND PATIENT ADVOCACY.

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

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

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

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

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

19 S 2825. COMMISSIONER AND COUNCIL; POWERS AND DUTIES. THE COMMISSIONER  
20 SHALL:

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

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

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

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

1 SHALL MEET THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS  
2 SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 FOR ANY UNITS NOT LISTED IN THIS PARAGRAPH, INCLUDING PSYCHIATRIC  
6 UNITS, AND ACUTE CARE FACILITIES OPERATED PURSUANT TO THE MENTAL HYGIENE  
7 LAW OR THE CORRECTION LAW, THE DEPARTMENT SHALL ESTABLISH BY REGULATION  
8 THE APPROPRIATE DIRECT-CARE NURSE-TO-PATIENT RATIO.

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

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

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

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

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

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

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

53 2. FOR PURPOSES OF COMPLIANCE WITH THE MINIMUM STAFFING REQUIREMENTS  
54 STANDARDS SET FORTH IN SECTION TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS  
55 ARTICLE, NO NURSE SHALL BE ASSIGNED, OR INCLUDED IN THE NURSE-TO-PATIENT  
56 RATIO COUNT IN A NURSING UNIT OR A CLINICAL AREA WITHIN AN ACUTE CARE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) WHERE FEASIBLE, AN OPPORTUNITY FOR THE SUPERVISOR TO REVIEW THE SPECIFIC CONDITIONS SUPPORTING THE NURSE'S REQUEST, AND TO DECIDE WHETHER TO REMEDY THE CONDITIONS, TO RELIEVE THE NURSE OF THE ASSIGNMENT, OR TO DENY THE NURSE'S REQUEST TO BE RELIEVED OF THE ASSIGNMENT OR CONTINUED DUTY;

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

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

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

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

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

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

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

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

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

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

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

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

S 2830. ENFORCEMENT RESPONSIBILITIES. THE DEPARTMENT SHALL NOT DELEGATE ITS RESPONSIBILITIES TO ENFORCE THE SAFE STAFFING REQUIREMENTS PROMULGATED PURSUANT TO THIS ARTICLE.

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

2. CIVIL PENALTY FOR INTERFERENCE WITH REPORTING OBLIGATIONS. ANY PERSON OR ACUTE CARE FACILITY THAT FAILS TO REPORT OR FALSIFIES INFORMATION, OR COERCES, THREATENS, INTIMIDATES OR OTHERWISE INFLUENCES ANOTHER

1 ER PERSON TO FAIL TO REPORT OR TO FALSIFY INFORMATION REQUIRED TO BE  
2 REPORTED UNDER THE SAFE STAFFING REQUIREMENTS, MAY BE ASSESSED A CIVIL  
3 PENALTY OF UP TO TEN THOUSAND DOLLARS FOR EACH SUCH INCIDENT.

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

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

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

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

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

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

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

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



1 S 7. The public health law is amended by adding a new section 2895-b  
2 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  
21 LEGISLATURE, THE PUBLIC AND THE COMMISSIONER ANY RECOMMENDATIONS REGARD-  
22 ING STAFFING LEVELS IN NURSING HOMES.

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

32 (B) EVERY NURSING HOME SHALL:

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

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

38 (C) SUBJECT TO SUBDIVISION FIVE OF THIS SECTION, STAFFING STANDARDS  
39 UNDER THIS SECTION SHALL, AT A MINIMUM, BE THE STAFFING STANDARDS UNDER  
40 SUBDIVISION FOUR OF THIS SECTION.

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

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

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

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

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

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

4 (B) IF THE COMMISSIONER DETERMINES THAT COMPLIANCE WITH THE STATUTORY  
5 STANDARD UNDER SUBDIVISION FOUR OF THIS SECTION IS NOT REASONABLY FEASI-  
6 BLE FOR NURSING HOMES BY THE TIME SPECIFIED IN THAT SUBDIVISION, THE  
7 COMMISSIONER MAY DELAY THE IMPLEMENTATION OF THAT STAFFING STANDARD FOR  
8 A PHASE-IN PERIOD NOT TO EXCEED FIVE YEARS AFTER THIS SECTION BECOMES A  
9 LAW. IF THE COMMISSIONER DELAYS IMPLEMENTATION OF THAT STAFFING STAND-  
10 ARD, THE COMMISSIONER SHALL PHASE IN, OVER THE PHASE-IN PERIOD, STAFF-  
11 ING STANDARDS THAT GRADUALLY INCREASE IN EACH OF THE YEARS OF THE  
12 PHASE-IN PERIOD UNTIL THE STAFFING STANDARD MEETS AT LEAST THE STATUTORY  
13 STANDARD UNDER SUBDIVISION FOUR OF THIS SECTION.

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

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

24 S 8. If any provision of this act, or any application of any provision  
25 of this act, is held to be invalid, or ruled by any federal agency to  
26 violate or be inconsistent with any applicable federal law or regu-  
27 lation, that shall not affect the validity or effectiveness of any other  
28 provision of this act, or of any other application of any provision of  
29 this act.

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