

3691--A

2013-2014 Regular Sessions

I N S E N A T E

February 11, 2013

Introduced by Sens. HANNON, ADDABBO, AVELLA, BONACIC, BRESLIN, DIAZ, GRISANTI, HASSELL-THOMPSON, KENNEDY, LANZA, LATIMER, MARTINS, PERKINS, SAMPSON, SAVINO, TKACZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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
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.

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

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1 S 3. The public health law is amended by adding nine new sections
2 2823-a, 2824, 2825, 2826, 2827, 2828, 2829, 2830 and 2831 to read as
3 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 S 2825. COMMISSIONER AND COUNCIL; POWERS AND DUTIES. THE COMMISSIONER
22 SHALL:

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

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

48 3. ASSURE THAT THE PROVISIONS OF SAFE STAFFING REQUIREMENTS ARE
49 ENFORCED, INCLUDING THE ISSUANCE OF REGULATIONS WHICH AT A MINIMUM
50 PROVIDE FOR AN ACCESSIBLE AND CONFIDENTIAL SYSTEM TO REPORT THE FAILURE
51 TO COMPLY WITH SUCH REQUIREMENTS AND PUBLIC ACCESS TO INFORMATION
52 REGARDING REPORTS OF INSPECTIONS, RESULTS, DEFICIENCIES AND CORRECTIONS
53 PURSUANT TO SUCH REQUIREMENTS.

54 S 2826. STAFFING REQUIREMENTS. 1. STAFFING REQUIREMENTS. EACH ACUTE
55 CARE FACILITY SHALL ENSURE THAT IT IS STAFFED IN A MANNER THAT PROVIDES
56 SUFFICIENT, APPROPRIATELY QUALIFIED DIRECT-CARE NURSES IN EACH DEPART-

1 MENT OR UNIT WITHIN SUCH FACILITY IN ORDER TO MEET THE INDIVIDUALIZED
2 CARE NEEDS OF THE PATIENTS THEREIN. AT A MINIMUM, EACH SUCH FACILITY
3 SHALL MEET THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS
4 SECTION.

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

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

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

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

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

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

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

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

34 (H) 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 (I) 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 MATERNAL/CHILD CARE UNITS FOR THE SECOND OR THIRD STAGE OF
47 LABOR;

48 (II) ONE NURSE TO TWO PATIENTS: MATERNAL/CHILD CARE UNITS FOR THE
49 FIRST STAGE OF LABOR, AND ALL CRITICAL CARE AREAS INCLUDING EMERGENCY
50 CRITICAL CARE AND ALL INTENSIVE CARE UNITS 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,
2 POSTPARTUM MOTHER ONLY UNITS AND MEDICAL/SURGICAL AND ACUTE CARE PSYCHI-
3 ATRIC UNITS;

4 (VI) ONE NURSE TO FIVE PATIENTS: REHABILITATION UNITS AND SUBACUTE
5 PATIENTS; AND

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

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

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

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

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

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

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

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

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

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

54 S 2827. COMPLIANCE WITH STAFFING PLAN AND RECORDKEEPING. 1. EACH
55 ACUTE CARE FACILITY SHALL AT ALL TIMES STAFF IN ACCORDANCE WITH ITS
56 DOCUMENTED STAFFING PLAN AND THE STAFFING STANDARDS SET FORTH IN SECTION

1 TWENTY-EIGHT HUNDRED TWENTY-SIX OF THIS ARTICLE; PROVIDED, HOWEVER, THAT
2 NOTHING IN THIS SECTION SHALL BE DEEMED TO PRECLUDE ANY SUCH FACILITY
3 FROM IMPLEMENTING HIGHER DIRECT-CARE NURSE-TO-PATIENT STAFFING LEVELS,
4 NOR SHALL THE REQUIREMENTS SET FORTH IN SUCH SECTION TWENTY-EIGHT
5 HUNDRED TWENTY-SIX OF THIS ARTICLE BE DEEMED TO SUPERSEDE OR REPLACE ANY
6 HIGHER REQUIREMENTS OTHERWISE MANDATED BY LAW, REGULATION OR CONTRACT.

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

29 3. EACH ACUTE CARE FACILITY SHALL MAINTAIN ACCURATE DAILY RECORDS
30 SHOWING:

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

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

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

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

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

42 6. ALL RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS SECTION SHALL BE
43 MADE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND TO THE PUBLIC;
44 PROVIDED, HOWEVER, THAT INFORMATION RELEASED TO THE PUBLIC SHALL COMPLY
45 WITH THE APPLICABLE PATIENT PRIVACY LAWS, RULES AND REGULATIONS, AND
46 THAT IN FACILITIES OPERATED PURSUANT TO THE CORRECTION LAW THE IDENTITY
47 AND HOURS OF STAFF SHALL NOT BE RELEASED TO THE PUBLIC.

48 S 2828. WORK ASSIGNMENT POLICY. 1. GENERAL. EACH ACUTE CARE FACILITY
49 SHALL ADOPT, DISSEMINATE TO DIRECT-CARE NURSES AND COMPLY WITH A WRITTEN
50 WORK ASSIGNMENT POLICY, THAT MEETS THE REQUIREMENTS OF SUBDIVISIONS TWO
51 AND THREE OF THIS SECTION, DETAILING THE CIRCUMSTANCES UNDER WHICH A
52 DIRECT-CARE NURSE MAY REFUSE A WORK ASSIGNMENT.

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

55 (A) FOR WHICH THE NURSE IS NOT PREPARED BY EDUCATION, TRAINING OR
56 EXPERIENCE TO SAFELY FULFILL THE ASSIGNMENT WITHOUT COMPROMISING OR

1 JEOPARDIZING PATIENT SAFETY, THE NURSE'S ABILITY TO MEET FORESEEABLE
2 PATIENT NEEDS OR THE NURSE'S LICENSE; OR

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

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

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

9 (B) WHERE FEASIBLE, AN OPPORTUNITY FOR THE SUPERVISOR TO REVIEW THE
10 SPECIFIC CONDITIONS SUPPORTING THE NURSE'S REQUEST, AND TO DECIDE WHETH-
11 ER TO REMEDY THE CONDITIONS, TO RELIEVE THE NURSE OF THE ASSIGNMENT, OR
12 TO DENY THE NURSE'S REQUEST TO BE RELIEVED OF THE ASSIGNMENT OR CONTIN-
13 UED DUTY;

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

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

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

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

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

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

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

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

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

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

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

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

45 S 2830. ENFORCEMENT RESPONSIBILITIES. THE DEPARTMENT SHALL NOT DELE-
46 GATE ITS RESPONSIBILITIES TO ENFORCE THE SAFE STAFFING REQUIREMENTS
47 PROMULGATED PURSUANT TO THIS ARTICLE.

48 S 2831. PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF SECTION TWENTY-EIGHT
49 HUNDRED TWENTY-EIGHT OF THIS ARTICLE. ANY ACUTE CARE FACILITY THAT
50 VIOLATES THE RIGHTS OF AN EMPLOYEE PURSUANT TO AN ADOPTED WORK ASSIGN-
51 MENT POLICY UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-EIGHT OF THIS
52 ARTICLE MAY BE HELD LIABLE TO SUCH EMPLOYEE IN AN ACTION BROUGHT IN A
53 COURT OF COMPETENT JURISDICTION FOR SUCH LEGAL OR EQUITABLE RELIEF AS
54 MAY BE APPROPRIATE TO EFFECTUATE THE PURPOSES OF THE SAFE STAFFING
55 REQUIREMENTS, INCLUDING BUT NOT LIMITED TO REINSTATEMENT, PROMOTION,
56 LOST WAGES AND BENEFITS, AND COMPENSATORY AND CONSEQUENTIAL DAMAGES

1 RESULTING FROM THE VIOLATION TOGETHER WITH AN EQUAL AMOUNT IN LIQUIDATED
2 DAMAGES. THE COURT IN SUCH ACTION SHALL, IN ADDITION TO ANY JUDGMENT
3 AWARDED TO A PREVAILING PLAINTIFF, AWARD REASONABLE ATTORNEYS' FEES AND
4 COSTS OF ACTION TO BE PAID BY THE DEFENDANT. AN EMPLOYEE'S RIGHT TO
5 INSTITUTE A PRIVATE ACTION PURSUANT TO THIS SUBDIVISION SHALL NOT BE
6 LIMITED BY ANY OTHER RIGHT GRANTED BY THE SAFE STAFFING REQUIREMENTS.

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

9 3-B. IN CONSIDERING CHARACTER, COMPETENCE AND STANDING IN THE COMMUNI-
10 TY UNDER SUBDIVISION THREE OF THIS SECTION, THE PUBLIC HEALTH AND HEALTH
11 PLANNING COUNCIL SHALL CONSIDER ANY PAST VIOLATIONS OF STATE OR FEDERAL
12 RULES, REGULATIONS OR STATUTES RELATING TO EMPLOYER-EMPLOYEE RELATIONS,
13 WORKPLACE SAFETY, COLLECTIVE BARGAINING OR ANY OTHER LABOR RELATED PRAC-
14 TICES, OBLIGATIONS OR IMPERATIVES. THE PUBLIC HEALTH AND HEALTH PLANNING
15 COUNCIL SHALL GIVE SUBSTANTIAL WEIGHT TO VIOLATIONS OF THE PROVISIONS OF
16 THIS CHAPTER CONCERNING NURSE STAFF AND SUPPORTIVE STAFF RATIOS.

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

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

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

30 S 2895-B. RESIDENTIAL HEALTH CARE FACILITY STAFFING LEVELS. 1. DEFI-
31 NITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
32 FOLLOWING MEANINGS:

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

36 (B) "STAFFING RATIO" MEANS THE QUOTIENT OF THE NUMBER OF PERSONNEL IN
37 A PARTICULAR CATEGORY REGULARLY ON DUTY FOR A PARTICULAR TIME PERIOD IN
38 A NURSING HOME DIVIDED BY THE NUMBER OF RESIDENTS OF THE NURSING HOME AT
39 THAT TIME.

40 2. COMMISSIONER AND RESIDENTIAL HEALTH CARE FACILITY COUNCIL; POWERS
41 AND DUTIES. THE COMMISSIONER SHALL: APPOINT A RESIDENTIAL HEALTH CARE
42 FACILITY COUNCIL CONSISTING OF THIRTEEN MEMBERS. NO LESS THAN TWO
43 MEMBERS SHALL BE DIRECT CARE LICENSED PRACTICAL NURSES, NO LESS THAN
44 TWO MEMBERS SHALL BE DIRECT CARE CERTIFIED NURSE ASSISTANTS AND NO LESS
45 THAN ONE MEMBER SHALL BE A DIRECT CARE REGISTERED PROFESSIONAL NURSE.
46 THE COUNCIL SHALL ALSO INCLUDE NO LESS THAN ONE REPRESENTATIVE EACH OF
47 RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING AGENTS OF REGISTERED NURS-
48 ES, OF NON-REGISTERED NURSE DIRECT CARE STAFF AND A REPRESENTATIVE OF
49 NURSING PROFESSIONAL ASSOCIATIONS. THE COUNCIL SHALL ALSO INCLUDE NO
50 LESS THAN TWO REPRESENTATIVES OF RESIDENTIAL HEALTH CARE FACILITY OPERA-
51 TORS, TWO REPRESENTATIVES OF RESIDENTIAL HEALTH CARE FACILITY NURSE
52 ADMINISTRATORS AND ONE REPRESENTATIVE OF CONSUMERS. THE RESIDENTIAL
53 HEALTH CARE FACILITY COUNCIL SHALL ADVISE THE COMMISSIONER IN THE DEVEL-
54 OPMENT OF REGULATIONS RELATING TO THE STAFFING STANDARDS UNDER THIS
55 SECTION; AND MAY FROM TIME TO TIME, REPORT TO THE GOVERNOR, THE LEGISLA-

1 TURE, THE PUBLIC AND THE COMMISSIONER ANY RECOMMENDATIONS REGARDING
2 STAFFING LEVELS IN RESIDENTIAL HEALTH CARE FACILITIES.

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

13 (B) EVERY RESIDENTIAL HEALTH CARE FACILITY SHALL:

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

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

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

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

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

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

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

33 (C) 0.75 HOURS OF CARE PER RESIDENT PER DAY BY A REGISTERED NURSE; THE
34 MINIMUM OF 0.75 HOURS OF CARE PER RESIDENT PROVIDED BY A REGISTERED
35 NURSE SHALL BE DIVIDED AMONG ALL SHIFTS TO ENSURE AN APPROPRIATE LEVEL
36 OF REGISTERED NURSE CARE TWENTY-FOUR HOURS PER DAY, SEVEN DAYS A WEEK,
37 TO MEET RESIDENT NEEDS; AND

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

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

54 6. PUBLIC DISCLOSURE OF STAFFING LEVELS. (A) A RESIDENTIAL HEALTH CARE
55 FACILITY SHALL POST INFORMATION REGARDING NURSE STAFFING THAT THE FACIL-
56 ITY IS REQUIRED TO MAKE AVAILABLE TO THE PUBLIC UNDER SECTION

1 TWENTY-EIGHT HUNDRED FIVE-T OF THIS CHAPTER. INFORMATION UNDER THIS
2 PARAGRAPH SHALL BE DISPLAYED IN A FORM APPROVED BY THE DEPARTMENT AND BE
3 POSTED IN A MANNER WHICH IS VISIBLE AND ACCESSIBLE TO RESIDENTS, THEIR
4 FAMILIES AND THE STAFF, AS REQUIRED BY THE COMMISSIONER.

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

8 S 7. If any provision of this act, or any application of any provision
9 of this act, is held to be invalid, or ruled by any federal agency to
10 violate or be inconsistent with any applicable federal law or regu-
11 lation, that shall not affect the validity or effectiveness of any other
12 provision of this act, or of any other application of any provision of
13 this act.

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