

8580

2015-2016 Regular Sessions

I N A S S E M B L Y

November 16, 2015

Introduced by M. of A. GUNTHER, GOTTFRIED, CLARK, ROSENTHAL, BRINDISI, BRONSON, COLTON, BENEDETTO, JAFFEE, MAGNARELLI, MARKEY, MILLER, WEPRIN, RIVERA, RYAN, SKARTADOS, SEPULVEDA, AUBRY, OTIS, SKOUFIS, STECK, MAYER, SANTABARBARA, ZEBROWSKI, MOSLEY, ORTIZ, TITUS, ABINANTI, PERSAUD, BARRON, SEAWRIGHT, LINARES, WALKER, BICHOTTE, RICHARDSON, BRABENEC, PALUMBO -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, BORELLI, BRENNAN, BUTLER, CAHILL, CERETTO, COOK, CRESPO, CUSICK, CYMBROWITZ, DAVILA, DenDEKKER, DINOWITZ, ENGLEBRIGHT, FAHY, FARRELL, GLICK, GRAF, HOOPER, JOHNS, KEARNS, LAVINE, LIFTON, LUPARDO, LUPINACCI, MAGEE, McDONOUGH, McKEVITT, MONTESANO, PAULIN, PERRY, PRETLOW, RAMOS, ROBINSON, RUSSELL, SALADINO, SCHIMEL, SIMON, SIMOTAS, SOLAGES, TEDISCO, THIELE, TITONE, WEINSTEIN, WOERNER, WOZNIAK, WRIGHT -- read once and referred to the Committee on Health

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-EIGHT OF THIS ARTICLE, and such other infor-
13 mation as the department may require.

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

LBD13044-01-5

1 (b) An operating certificate shall not be issued by the department
2 unless it finds that the premises, equipment, personnel, DOCUMENTED
3 STAFFING PLAN, rules and by-laws, standards of medical care, and hospi-
4 tal service are fit and adequate and that the hospital will be operated
5 in the manner required by this article and rules and regulations there-
6 under.

7 S 3. The public health law is amended by adding nine new sections
8 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834 and 2835 to read as
9 follows:

10 S 2827. PUBLIC POLICY AND PURPOSE. THE LEGISLATURE FINDS AND DECLARES
11 ALL OF THE FOLLOWING:

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

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

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

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

23 S 2828. SAFE STAFFING; DEFINITIONS. THE FOLLOWING WORDS AND PHRASES,
24 AS USED IN THIS ARTICLE, SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE
25 CONTEXT OTHERWISE PLAINLY REQUIRES:

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

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

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

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

52 5. "DOCUMENTED STAFFING PLAN" SHALL MEAN A DETAILED WRITTEN PLAN
53 SETTING FORTH THE MINIMUM NUMBER AND CLASSIFICATION OF DIRECT-CARE NURS-
54 ES REQUIRED IN EACH NURSING DEPARTMENT OR UNIT IN AN ACUTE CARE FACILITY
55 FOR A GIVEN YEAR, BASED ON REASONABLE PROJECTIONS DERIVED FROM THE
56 PATIENT CENSUS AND AVERAGE ACUITY LEVEL WITHIN EACH DEPARTMENT OR UNIT

1 DURING THE PRIOR YEAR, THE DEPARTMENT OR UNIT SIZE AND GEOGRAPHY, THE
2 NATURE OF SERVICES PROVIDED AND ANY FORESEEABLE CHANGES IN DEPARTMENT OR
3 UNIT SIZE OR FUNCTION DURING THE CURRENT YEAR.

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

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

12 8. "SAFE STAFFING REQUIREMENTS" SHALL MEAN THE PROVISIONS OF SECTIONS
13 TWENTY-EIGHT HUNDRED TWENTY-SEVEN THROUGH TWENTY-EIGHT HUNDRED
14 THIRTY-FIVE OF THIS ARTICLE AND ALL RULES AND REGULATIONS ADOPTED PURSU-
15 ANT THERETO.

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

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

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

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

27 S 2829. COMMISSIONER AND COUNCIL; POWERS AND DUTIES. THE COMMISSIONER
28 SHALL:

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

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

54 3. ASSURE THAT THE PROVISIONS OF SAFE STAFFING REQUIREMENTS ARE
55 ENFORCED, INCLUDING THE ISSUANCE OF REGULATIONS WHICH AT A MINIMUM
56 PROVIDE FOR AN ACCESSIBLE AND CONFIDENTIAL SYSTEM TO REPORT THE FAILURE

1 TO COMPLY WITH SUCH REQUIREMENTS AND PUBLIC ACCESS TO INFORMATION
2 REGARDING REPORTS OF INSPECTIONS, RESULTS, DEFICIENCIES AND CORRECTIONS
3 PURSUANT TO SUCH REQUIREMENTS.

4 S 2830. STAFFING REQUIREMENTS. 1. STAFFING REQUIREMENTS. EACH ACUTE
5 CARE FACILITY SHALL ENSURE THAT IT IS STAFFED IN A MANNER THAT PROVIDES
6 SUFFICIENT, APPROPRIATELY QUALIFIED DIRECT-CARE NURSES IN EACH DEPART-
7 MENT OR UNIT WITHIN SUCH FACILITY IN ORDER TO MEET THE INDIVIDUALIZED
8 CARE NEEDS OF THE PATIENTS THEREIN. AT A MINIMUM, EACH SUCH FACILITY
9 SHALL MEET THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS
10 SECTION.

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

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

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

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

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

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

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

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

40 (H) IDENTIFY EACH NURSE STAFF CLASSIFICATION REFERENCED IN SUCH PLAN
41 TOGETHER WITH A STATEMENT SETTING FORTH MINIMUM QUALIFICATIONS FOR EACH
42 SUCH CLASSIFICATION; AND

43 (I) BE DEVELOPED IN CONSULTATION WITH A MAJORITY OF THE DIRECT-CARE
44 NURSES WITHIN EACH DEPARTMENT OR UNIT OR, WHERE SUCH NURSES ARE REPRES-
45 ENTED, WITH THE APPLICABLE RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING
46 REPRESENTATIVE OR REPRESENTATIVES OF THE DIRECT-CARE NURSES AND OF OTHER
47 SUPPORTIVE AND ASSISTIVE STAFF.

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

51 (I) ONE NURSE TO ONE PATIENT: OPERATING ROOM AND TRAUMA EMERGENCY
52 UNITS AND MATERNAL/CHILD CARE UNITS FOR THE SECOND OR THIRD STAGE OF
53 LABOR;

54 (II) ONE NURSE TO TWO PATIENTS: MATERNAL/CHILD CARE UNITS FOR THE
55 FIRST STAGE OF LABOR, AND ALL CRITICAL CARE AREAS INCLUDING EMERGENCY
56 CRITICAL CARE AND ALL INTENSIVE CARE UNITS AND POSTANESTHESIA UNITS;

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

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

6 (V) ONE NURSE TO FOUR PATIENTS: NON-CRITICAL ANTEPARTUM PATIENTS,
7 POSTPARTUM MOTHER ONLY UNITS AND MEDICAL/SURGICAL AND ACUTE CARE PSYCHI-
8 ATRIC UNITS;

9 (VI) ONE NURSE TO FIVE PATIENTS: REHABILITATION UNITS AND SUBACUTE
10 PATIENTS; AND

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

12 FOR ANY UNITS NOT LISTED IN THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED
13 TO, PSYCHIATRIC UNITS, AND ACUTE CARE FACILITIES OPERATED PURSUANT TO
14 THE MENTAL HYGIENE LAW OR THE CORRECTION LAW, THE DEPARTMENT SHALL
15 ESTABLISH BY REGULATION THE APPROPRIATE DIRECT-CARE NURSE-TO-PATIENT
16 RATIO.

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

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

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

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

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

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

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

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

4 S 2831. COMPLIANCE WITH STAFFING PLAN AND RECORDKEEPING. 1. EACH
5 ACUTE CARE FACILITY SHALL AT ALL TIMES STAFF IN ACCORDANCE WITH ITS
6 DOCUMENTED STAFFING PLAN AND THE STAFFING STANDARDS SET FORTH IN SECTION
7 TWENTY-EIGHT HUNDRED THIRTY OF THIS ARTICLE; PROVIDED, HOWEVER, THAT
8 NOTHING IN THIS SECTION SHALL BE DEEMED TO PRECLUDE ANY SUCH FACILITY
9 FROM IMPLEMENTING HIGHER DIRECT-CARE NURSE-TO-PATIENT STAFFING LEVELS,
10 NOR SHALL THE REQUIREMENTS SET FORTH IN SUCH SECTION TWENTY-EIGHT
11 HUNDRED THIRTY OF THIS ARTICLE BE DEEMED TO SUPERSEDE OR REPLACE ANY
12 HIGHER REQUIREMENTS OTHERWISE MANDATED BY LAW, REGULATION OR CONTRACT.

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

35 3. EACH ACUTE CARE FACILITY SHALL MAINTAIN ACCURATE DAILY RECORDS
36 SHOWING:

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

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

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

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

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

48 6. ALL RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS SECTION SHALL BE
49 MADE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND TO THE PUBLIC;
50 PROVIDED, HOWEVER, THAT INFORMATION RELEASED TO THE PUBLIC SHALL COMPLY
51 WITH THE APPLICABLE PATIENT PRIVACY LAWS, RULES AND REGULATIONS, AND
52 THAT IN FACILITIES OPERATED PURSUANT TO THE CORRECTION LAW THE IDENTITY
53 AND HOURS OF STAFF SHALL NOT BE RELEASED TO THE PUBLIC.

54 S 2832. WORK ASSIGNMENT POLICY. 1. GENERAL. EACH ACUTE CARE FACILITY
55 SHALL ADOPT, DISSEMINATE TO DIRECT-CARE NURSES AND COMPLY WITH A WRITTEN
56 WORK ASSIGNMENT POLICY, THAT MEETS THE REQUIREMENTS OF SUBDIVISIONS TWO

1 AND THREE OF THIS SECTION, DETAILING THE CIRCUMSTANCES UNDER WHICH A
2 DIRECT-CARE NURSE MAY REFUSE A WORK ASSIGNMENT.

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

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

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

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

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

15 (B) WHERE FEASIBLE, AN OPPORTUNITY FOR THE SUPERVISOR TO REVIEW THE
16 SPECIFIC CONDITIONS SUPPORTING THE NURSE'S REQUEST, AND TO DECIDE WHETH-
17 ER TO REMEDY THE CONDITIONS, TO RELIEVE THE NURSE OF THE ASSIGNMENT, OR
18 TO DENY THE NURSE'S REQUEST TO BE RELIEVED OF THE ASSIGNMENT OR CONTIN-
19 UED DUTY;

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

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

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

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

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

34 S 2833. PUBLIC DISCLOSURE OF STAFFING REQUIREMENTS. EVERY ACUTE CARE
35 FACILITY SHALL:

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

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

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

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

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

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

51 S 2834. ENFORCEMENT RESPONSIBILITIES. THE DEPARTMENT SHALL NOT DELE-
52 GATE ITS RESPONSIBILITIES TO ENFORCE THE SAFE STAFFING REQUIREMENTS
53 PROMULGATED PURSUANT TO THIS ARTICLE.

54 S 2835. PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF SECTION TWENTY-EIGHT
55 HUNDRED THIRTY-TWO OF THIS ARTICLE. ANY ACUTE CARE FACILITY THAT
56 VIOLATES THE RIGHTS OF AN EMPLOYEE PURSUANT TO AN ADOPTED WORK ASSIGN-

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

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

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

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

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

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

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

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

42 (B) "STAFFING RATIO" MEANS THE QUOTIENT OF THE NUMBER OF PERSONNEL IN
43 A PARTICULAR CATEGORY REGULARLY ON DUTY FOR A PARTICULAR TIME PERIOD IN
44 A NURSING HOME DIVIDED BY THE NUMBER OF RESIDENTS OF THE NURSING HOME AT
45 THAT TIME.

46 2. COMMISSIONER AND RESIDENTIAL HEALTH CARE FACILITY COUNCIL; POWERS
47 AND DUTIES. THE COMMISSIONER SHALL: APPOINT A RESIDENTIAL HEALTH CARE
48 FACILITY COUNCIL CONSISTING OF THIRTEEN MEMBERS. NO LESS THAN TWO
49 MEMBERS SHALL BE DIRECT CARE LICENSED PRACTICAL NURSES, NO LESS THAN
50 TWO MEMBERS SHALL BE DIRECT CARE CERTIFIED NURSE ASSISTANTS AND NO LESS
51 THAN ONE MEMBER SHALL BE A DIRECT CARE REGISTERED PROFESSIONAL NURSE.
52 THE COUNCIL SHALL ALSO INCLUDE NO LESS THAN ONE REPRESENTATIVE EACH OF
53 RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING AGENTS OF REGISTERED NURS-
54 ES, OF NON-REGISTERED NURSE DIRECT CARE STAFF AND A REPRESENTATIVE OF
55 NURSING PROFESSIONAL ASSOCIATIONS. THE COUNCIL SHALL ALSO INCLUDE NO
56 LESS THAN TWO REPRESENTATIVES OF RESIDENTIAL HEALTH CARE FACILITY OPERA-

1 TORS, TWO REPRESENTATIVES OF RESIDENTIAL HEALTH CARE FACILITY NURSE
2 ADMINISTRATORS AND ONE REPRESENTATIVE OF CONSUMERS. THE RESIDENTIAL
3 HEALTH CARE FACILITY COUNCIL SHALL ADVISE THE COMMISSIONER IN THE DEVEL-
4 OPMENT OF REGULATIONS RELATING TO THE STAFFING STANDARDS UNDER THIS
5 SECTION; AND MAY FROM TIME TO TIME, REPORT TO THE GOVERNOR, THE LEGISLA-
6 TURE, THE PUBLIC AND THE COMMISSIONER ANY RECOMMENDATIONS REGARDING
7 STAFFING LEVELS IN RESIDENTIAL HEALTH CARE FACILITIES.

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

18 (B) EVERY RESIDENTIAL HEALTH CARE FACILITY SHALL:

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

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

24 (C) SUBJECT TO SUBDIVISION FIVE OF THIS SECTION, STAFFING STANDARDS
25 UNDER THIS SECTION SHALL, AT A MINIMUM, BE THE STAFFING STANDARDS UNDER
26 SUBDIVISION FOUR OF THIS SECTION.

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

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

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

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

38 (C) 0.75 HOURS OF CARE PER RESIDENT PER DAY BY A REGISTERED NURSE; THE
39 MINIMUM OF 0.75 HOURS OF CARE PER RESIDENT PROVIDED BY A REGISTERED
40 NURSE SHALL BE DIVIDED AMONG ALL SHIFTS TO ENSURE AN APPROPRIATE LEVEL
41 OF REGISTERED NURSE CARE TWENTY-FOUR HOURS PER DAY, SEVEN DAYS A WEEK,
42 TO MEET RESIDENT NEEDS; AND

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

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

1 INSTITUTE A PRIVATE ACTION PURSUANT TO THIS SUBDIVISION SHALL NOT BE
2 LIMITED BY ANY OTHER RIGHT GRANTED BY THE SAFE STAFFING REQUIREMENTS.

3 6. PUBLIC DISCLOSURE OF STAFFING LEVELS. (A) A RESIDENTIAL HEALTH CARE
4 FACILITY SHALL POST INFORMATION REGARDING NURSE STAFFING THAT THE FACIL-
5 ITY IS REQUIRED TO MAKE AVAILABLE TO THE PUBLIC UNDER SECTION
6 TWENTY-EIGHT HUNDRED FIVE-T OF THIS CHAPTER. INFORMATION UNDER THIS
7 PARAGRAPH SHALL BE DISPLAYED IN A FORM APPROVED BY THE DEPARTMENT AND BE
8 POSTED IN A MANNER WHICH IS VISIBLE AND ACCESSIBLE TO RESIDENTS, THEIR
9 FAMILIES AND THE STAFF, AS REQUIRED BY THE COMMISSIONER.

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

13 S 7. If any provision of this act, or any application of any provision
14 of this act, is held to be invalid, or ruled by any federal agency to
15 violate or be inconsistent with any applicable federal law or regu-
16 lation, that shall not affect the validity or effectiveness of any other
17 provision of this act, or of any other application of any provision of
18 this act.

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