

STATE OF NEW YORK

108--A

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. GUNTHER, GOTTFRIED, PEOPLES-STOKES, BARRETT, L. ROSENTHAL, BRONSON, COLTON, BENEDETTO, CRUZ, MAGNARELLI, WEPRIN, J. RIVERA, FALL, AUBRY, OTIS, STECK, SANTABARBARA, ZEBROWSKI, ABINANTI, BARRON, SEAWRIGHT, WALKER, BICHOTTE HERMELYN, RICHARDSON, HYNDMAN, PICHARDO, JOYNER, JEAN-PIERRE, ROZIC, KIM, HEVESI, O'DONNELL, DILAN, DAVILA, HUNTER, WILLIAMS, CARROLL, WOERNER, PHEFFER AMATO, JONES, VANEL, NIOU, TAYLOR, DINOWITZ, DICKENS, WALLACE, REYES, STERN, SAYEGH, JACOBSON, McMAHON, ABBATE, CAHILL, FERNANDEZ, FRONTUS, EPSTEIN, BUTTENSCHON, RAMOS, DARLING, BRAUNSTEIN, DE LA ROSA, GRIFFIN, QUART, McDONALD, ENGLEBRIGHT, GALLAGHER, BURKE, KELLES, CYMBROWITZ, CLARK, MEEKS, BRABENEC, SMITH, MONTESANO, SALKA, SCHMITT, MORINELLO, B. MILLER, ASHBY, M. MILLER, DeSTEFANO, FORREST, GONZALEZ-ROJAS, BURDICK -- Multi-Sponsored by -- M. of A. BARNWELL, COOK, CUSICK, FAHY, GALEF, GLICK, LUPARDO, McDONOUGH, MIKULIN, PAULIN, PERRY, PRETLOW, RA, D. ROSENTHAL, SIMON, SOLAGES, THIELE -- read once and referred 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 § 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-

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

LBD02466-07-1

1 tal service to be provided, the location and physical description of the
2 institution, a documented staffing plan, as defined in section twenty-
3 eight hundred twenty-nine of this article, and such other information as
4 the department may require.

5 (b) An operating certificate shall not be issued by the department
6 unless it finds that the premises, equipment, personnel, documented
7 staffing plan, rules and by-laws, standards of medical care, and hospi-
8 tal service are fit and adequate and that the hospital will be operated
9 in the manner required by this article and rules and regulations there-
10 under.

11 § 3. The public health law is amended by adding nine new sections
12 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2835 and 2836 to read as
13 follows:

14 § 2828. Policy and purpose. The legislature finds and declares all of
15 the following:

16 1. Health care services are becoming complex and it is increasingly
17 difficult for patients to access integrated services;

18 2. The quality of patient care is jeopardized because of nurse staff-
19 ing shortages and improper utilization of nursing services;

20 3. To ensure the adequate protection of patients in health care
21 settings, it is essential that qualified registered nurses and other
22 licensed nurses be accessible and available to meet the needs of
23 patients; and

24 4. The basic principles of staffing in the health care setting should
25 be based on the patient's care needs, the severity of condition,
26 services needed and the complexity surrounding those services.

27 § 2829. Safe staffing; definitions. The following words and phrases,
28 as used in this article, shall have the following meanings unless the
29 context otherwise plainly requires:

30 1. "Hospital" shall mean a general hospital under this article and
31 shall also include any facility that provides health care services
32 pursuant to the mental hygiene law, article nineteen-G of the executive
33 law or the correction law if such facility is operated by the state or a
34 political subdivision of the state or a public authority or public bene-
35 fit corporation.

36 2. "Acuity system" shall mean an established measurement instrument
37 which (a) predicts nursing care requirements for individual patients
38 based on severity of patient illness, need for specialized equipment and
39 technology, intensity of nursing interventions required, and the
40 complexity of clinical nursing judgment needed to design, implement and
41 evaluate the patient's nursing care plan; (b) details the amount of
42 nursing care needed, both in number of direct-care nurses and in skill
43 mix of nursing personnel required, on a daily basis, for each patient in
44 a nursing department or unit; and (c) is stated in terms that readily
45 can be used and understood by direct-care nurses. The acuity system
46 shall take into consideration the patient care services provided not
47 only by registered professional nurses but also by licensed practical
48 nurses, social workers and other health care personnel.

49 3. "Assessment tool" shall mean a measurement system that compares the
50 staffing level in each nursing department or unit against actual patient
51 nursing care requirements in order to review the accuracy of an acuity
52 system.

53 4. "Direct-care nurse" and "direct-care nursing staff" shall mean any
54 nurse who has principal responsibility to oversee or carry out medical
55 regimens, nursing or other bedside care for one or more patients.

1 5. "Documented staffing plan" shall mean a detailed written plan
2 setting forth the minimum number and classification of direct-care nurs-
3 es required in each nursing department or unit in a hospital for a given
4 year, based on reasonable projections derived from the patient census
5 and average acuity level within each department or unit during the prior
6 year, the department or unit size and geography, the nature of services
7 provided and any foreseeable changes in department or unit size or func-
8 tion during the current year.

9 6. "Nurse" shall mean a registered professional nurse or licensed
10 practical nurse licensed pursuant to article one hundred thirty-nine of
11 the education law.

12 7. "Nursing care" shall mean that care which is within the definition
13 of the practice of nursing pursuant to section sixty-nine hundred two of
14 the education law, or otherwise encompassed with the recognized stand-
15 ards of nursing practice, including assessment, nursing diagnosis, plan-
16 ning, intervention, evaluation and patient advocacy.

17 8. "Safe staffing requirements" shall mean the provisions of this
18 section and sections twenty-eight hundred twenty-nine, twenty-eight
19 hundred thirty, twenty-eight hundred thirty-one, twenty-eight hundred
20 thirty-two, twenty-eight hundred thirty-three, twenty-eight hundred
21 thirty-four, twenty-eight hundred thirty-five and twenty-eight hundred
22 thirty-six of this article and all rules and regulations adopted pursu-
23 ant thereto.

24 9. "Skill mix" shall mean the differences in licensing, specialty and
25 experience among direct-care nurses.

26 10. "Staffing level" shall mean the actual numerical nurse to patient
27 ratio within a nursing department or unit.

28 11. "Unit" shall mean a patient care component, as defined by the
29 department, within a hospital.

30 12. "Non-nursing direct-care staff" shall mean any employee who is not
31 a nurse or other person licensed, certified or registered under title
32 eight of the education law whose principal responsibility is to carry
33 out patient care for one or more patients or provides direct assistance
34 in the delivery of patient care.

35 § 2830. Commissioner and council; powers and duties. The commissioner
36 shall:

37 1. appoint a hospital council consisting of thirteen members. No less
38 than seven members shall be registered professional nurses, three of
39 whom shall be direct care registered nurses, three of whom shall be
40 nurse managers and one of whom shall be a nurse administrator. No less
41 than two members of the hospital council shall be representatives of
42 recognized or certified collective bargaining agents of non-nursing
43 direct care staff. There shall be at least two representatives of hospi-
44 tals, one representative of a nursing professional association, and one
45 representative of a recognized or certified bargaining agent of nurses.
46 The hospital council shall advise the commissioner in the development of
47 regulations, including registered professional nurse to patient staffing
48 requirements and non-nursing direct-care staff to patient ratios that
49 are not specified in this article; the efficacy of acuity systems
50 submitted for approval by the commissioner; the development of an
51 assessment tool used to evaluate the efficacy of acuity systems; and
52 review and make recommendations on approval of staffing plans prior to
53 the granting of an operating certificate by the department.

54 2. promulgate, after consultation with the hospital council, the rules
55 and regulations necessary to carry out the purposes and provisions of
56 the safe staffing requirements, including regulations defining terms,

1 setting forth direct-care nurse to patient ratios, setting forth non-
2 nursing direct-care staff to patient ratios and prescribing the process
3 for approving facility specific acuity systems; and

4 3. assure that the provisions of safe staffing requirements are
5 enforced, including the issuance of regulations which at a minimum
6 provide for an accessible and confidential system to report the failure
7 to comply with such requirements and public access to information
8 regarding reports of inspections, results, deficiencies and corrections
9 pursuant to such requirements.

10 § 2831. Staffing requirements. 1. Staffing requirements. Each hospital
11 shall ensure that it is staffed in a manner that provides sufficient,
12 appropriately qualified direct-care nurses in each department or unit
13 within such facility in order to meet the individualized care needs of
14 the patients therein. At a minimum, each such facility shall meet the
15 requirements of subdivisions two and three of this section.

16 2. Staffing plan. The department shall not issue an operating certif-
17 icate to any hospital unless such facility annually submits to the
18 department a documented staffing plan and a written certification that
19 the submitted staffing plan is sufficient to provide adequate and appro-
20 priate delivery of health care services to patients for the ensuing
21 year. The documented staffing plan shall:

22 (a) meet the minimum requirements set forth in subdivision three of
23 this section;

24 (b) be adequate to meet any additional requirements provided by other
25 laws, rules or regulations;

26 (c) employ and identify an acuity system for addressing fluctuations
27 in actual patient acuity levels and nursing care requirements requiring
28 increased staffing levels above the minimums set forth in the plan;

29 (d) factor in other unit or department activity such as discharges,
30 transfers and admissions, staff breaks, meals, routine and expected
31 absences from the unit and administrative and support tasks that are
32 expected to be done by direct-care nurses in addition to direct nursing
33 care;

34 (e) include a plan to meet necessary staffing levels and services
35 provided by non-nursing direct-care staff in meeting patient care needs
36 pursuant to subdivision one of this section; provided, however, that the
37 staffing plan shall not incorporate or assume that nursing care func-
38 tions required by laws, rules or regulations, or accepted standards of
39 practice to be performed by a registered professional nurse are to be
40 performed by other personnel;

41 (f) identify the system that will be used to document actual staffing
42 on a daily basis within each department or unit;

43 (g) include a written assessment of the accuracy of the prior year's
44 staffing plan in light of actual staffing needs;

45 (h) identify each nurse staff classification referenced in such plan
46 together with a statement setting forth minimum qualifications for each
47 such classification; and

48 (i) be developed in consultation with a majority of the direct-care
49 nurses within each department or unit or, where such nurses are repres-
50 ented, with the applicable recognized or certified collective bargaining
51 representative or representatives of the direct-care nurses and of other
52 supportive and assistive staff.

53 3. Minimum staffing requirements. (a) The documented staffing plan
54 shall incorporate, at a minimum, the following direct-care nurse-to-pa-
55 tient ratios:

1 (i) one nurse to one patient: operating room and trauma emergency
2 units and maternal/child care units for the second or third stage of
3 labor;

4 (ii) one nurse to two patients: maternal/child care units for the
5 first stage of labor, and all critical care areas including emergency
6 critical care and all intensive care units and postanesthesia units;

7 (iii) one nurse to three patients: antepartum, emergency room, pedia-
8 trics, step-down and telemetry units and units for newborns and interme-
9 diante care nursery units;

10 (iv) one nurse to three patients: postpartum mother/baby couplets
11 (maximum six patients per nurse);

12 (v) one nurse to four patients: non-critical antepartum patients,
13 postpartum mother only units and medical/surgical and acute care psychi-
14 atric units;

15 (vi) one nurse to five patients: rehabilitation units and subacute
16 patients; and

17 (vii) one nurse to six patients: well-baby nursery units.

18 For any units not listed in this paragraph, including, but not limited
19 to, psychiatric units, and hospitals operated pursuant to the mental
20 hygiene law or the correction law, the department shall establish by
21 regulation the appropriate direct-care nurse-to-patient ratio.

22 (b) The nurse-to-patient ratios set forth in paragraph (a) of this
23 subdivision shall reflect the maximum number of patients that may be
24 assigned to each direct-care nurse in a unit at any one time.

25 (c) There shall be no averaging of the number of patients and the
26 total number of nurses on the unit during any one shift nor over any
27 period of time.

28 (d) The commissioner, in consultation with the hospital council, shall
29 establish regulations providing for the maintenance of minimum nurse-to-
30 patient ratios, as set forth in this section, including during routine
31 or expected absences from the unit, such as meals or breaks.

32 4. Licensed practical nurses. In any situation in which licensed practi-
33 cal nurses are included in the documented staffing plan, any patients
34 assigned to the licensed practical nurse shall also be included in
35 calculating the number of patients assigned to any registered profes-
36 sional nurse who is required by law, rule, regulation, contract or prac-
37 tice to supervise or oversee the direct-nursing care provided by the
38 licensed practical nurse.

39 5. Skill mix. The skill mix shall not incorporate or assume that nurs-
40 ing care functions required by section sixty-nine hundred two of the
41 education law or accepted standards of practice to be performed by a
42 registered professional nurse are to be performed by a licensed practi-
43 cal nurse or unlicensed assistive personnel, or that nursing care func-
44 tions required by section sixty-nine hundred two of the education law or
45 accepted standards of practice to be performed by a licensed practical
46 nurse are to be performed by unlicensed assistive personnel.

47 6. Adjustments by facility. The minimum staffing requirement and
48 nurse-to-patient ratio set forth in this section shall be adjusted by
49 the hospital as necessary to reflect the need for additional direct-care
50 nurses. Additional staff shall be assigned in accordance with the
51 approved, facility-specific patient acuity system for determining nurs-
52 ing care requirements, including the severity of the illness, the need
53 for specialized equipment and technology, the complexity of clinical
54 judgment needed to design, implement and evaluate the patient care plan
55 and the ability for self-care, and the licensure of the personnel
56 required for care.

1 7. Commissioner regulations. The commissioner may by regulation
2 require a documented staffing plan to have higher nurse-to-patient
3 ratios than those set forth in this section.

4 8. Nothing contained in this section shall supersede or diminish the
5 terms of a collective bargaining agreement that provides for staffing
6 ratios that exceed the ratios established under this section.

7 § 2832. Compliance with staffing plan and recordkeeping. 1. Each
8 hospital shall at all times staff in accordance with its documented
9 staffing plan and the staffing standards set forth in section twenty-
10 eight hundred thirty-one of this article; provided, however, that noth-
11 ing in this section shall be deemed to preclude any such facility from
12 implementing higher direct-care nurse-to-patient staffing levels, nor
13 shall the requirements set forth in such section twenty-eight hundred
14 thirty-one of this article be deemed to supersede or replace any higher
15 requirements otherwise mandated by law, regulation or contract.

16 2. For purposes of compliance with the minimum staffing requirements
17 standards set forth in section twenty-eight hundred thirty-one of this
18 article, no nurse shall be assigned, or included in the nurse-to-patient
19 ratio count in a nursing unit or a clinical area within a hospital
20 unless that nurse has an appropriate license pursuant to article one
21 hundred thirty-nine of the education law, has received prior orientation
22 in that clinical area sufficient to provide competent nursing care to
23 the patients in that unit or clinical area, and has demonstrated current
24 competence in providing care in that unit or clinical area. Hospitals
25 that utilize temporary nursing agencies shall have and adhere to a writ-
26 ten procedure to orient and evaluate personnel from such sources to
27 ensure adequate orientation and competency prior to inclusion in the
28 nurse-to-patient ratio. In the event of an emergency staffing situation
29 in which insufficient staffing may lead to unsafe patient care, nurses
30 may be temporarily assigned to a different unit or clinical area,
31 provided that such nurses shall be assigned patients appropriate to
32 their skill and competency level. The hospital shall establish a
33 consistent plan for addressing emergency staffing situations and monitor
34 outcomes. Emergencies are defined as natural disasters, declared emer-
35 gencies, mass casualty incidents or other events not reasonably antic-
36 ipated and planned for and not regularly occurring within the hospital.

37 3. Each hospital shall maintain accurate daily records showing:

38 (a) the number of patients admitted, released and present in each
39 nursing department or unit within such hospital;

40 (b) the individual acuity level of each patient present in each nurs-
41 ing department or unit within such hospital; and

42 (c) the identity and duty hours of each direct-care nurse in each
43 nursing department or unit within such hospital.

44 4. Each hospital shall maintain daily statistics, by nursing depart-
45 ment and unit, of mortality, morbidity, infection, accident, injury and
46 medical errors.

47 5. All records required to be kept pursuant to this section shall be
48 maintained for a period of seven years.

49 6. All records required to be kept pursuant to this section shall be
50 made available upon request to the department and to the public;
51 provided, however, that information released to the public shall comply
52 with the applicable patient privacy laws, rules and regulations, and
53 that in facilities operated pursuant to the correction law the identity
54 and hours of staff shall not be released to the public.

55 § 2833. Work assignment policy. 1. General. Each hospital shall
56 adopt, disseminate to direct-care nurses and comply with a written work

1 assignment policy, that meets the requirements of subdivisions two and
2 three of this section, detailing the circumstances under which a
3 direct-care nurse may refuse a work assignment.

4 2. Minimum conditions. At a minimum, the work assignment policy shall
5 permit a direct-care nurse to refuse an assignment:

6 (a) for which the nurse is not prepared by education, training or
7 experience to safely fulfill the assignment without compromising or
8 jeopardizing patient safety, the nurse's ability to meet foreseeable
9 patient needs or the nurse's license; or

10 (b) would otherwise violate the safe staffing requirements.

11 3. Minimum procedures. At a minimum, the work assignment policy shall
12 contain procedures for the following:

13 (a) reasonable requirements for prior notice to the nurse's supervisor
14 regarding the nurse's request and supporting reasons for being relieved
15 of an assignment or continued duty;

16 (b) where feasible, an opportunity for the supervisor to review the
17 specific conditions supporting the nurse's request, and to decide wheth-
18 er to remedy the conditions, to relieve the nurse of the assignment, or
19 to deny the nurse's request to be relieved of the assignment or contin-
20 ued duty;

21 (c) a process that permits the nurse to exercise the right to refuse
22 the assignment or continued on-duty status when the supervisor denies
23 the request to be relieved if:

24 (i) the supervisor rejects the request without proposing a remedy or
25 the proposed remedy would be inadequate or untimely,

26 (ii) the complaint and investigation process with a regulatory agency
27 would be untimely to address the concern, and

28 (iii) the employee in good faith believes that the assignment meets
29 conditions justifying refusal; and

30 (d) recognition that a nurse who refuses an assignment pursuant to a
31 work assignment policy as set forth in this section shall not be deemed,
32 by reason thereof, to have engaged in negligent or incompetent action,
33 patient abandonment, or otherwise to have violated any law relating to
34 nursing.

35 § 2834. Public disclosure of staffing requirements. Every hospital
36 shall:

37 1. post in a conspicuous place readily accessible to the general
38 public a notice prepared by the department setting forth a summary of
39 the safe staffing requirements applicable to that hospital together with
40 information about where detailed information about the hospital's staff-
41 ing plan and actual staffing may be obtained;

42 2. upon request, make copies of the documented staffing plan filed
43 with the department available to the public; and

44 3. upon request make readily available to the nursing staff within a
45 department or unit, during each work shift, the following information:

46 (a) a copy of the current staffing plan for that department or unit,

47 (b) documentation of the number of direct-care nurses required to be
48 present during the shift, based on the approved adopted acuity system,
49 and

50 (c) documentation of the actual number of direct-care nurses present
51 during the shift.

52 § 2835. Enforcement responsibilities. The department shall not dele-
53 gate its responsibilities to enforce the safe staffing requirements
54 promulgated pursuant to this article.

55 § 2836. Private right of action for violations of section twenty-eight
56 hundred thirty-three of this article. Any hospital that violates the

1 rights of an employee pursuant to an adopted work assignment policy
 2 under section twenty-eight hundred thirty-three of this article may be
 3 held liable to such employee in an action brought in a court of compe-
 4 tent jurisdiction for such legal or equitable relief as may be appropri-
 5 ate to effectuate the purposes of the safe staffing requirements,
 6 including but not limited to reinstatement, promotion, lost wages and
 7 benefits, and compensatory and consequential damages resulting from the
 8 violation together with an equal amount in liquidated damages. The court
 9 in such action shall, in addition to any judgment awarded to a prevail-
 10 ing plaintiff, award reasonable attorneys' fees and costs of action to
 11 be paid by the defendant. An employee's right to institute a private
 12 action pursuant to this subdivision shall not be limited by any other
 13 right granted by the safe staffing requirements.

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

16 3-b. In considering character, competence and standing in the communi-
 17 ty under subdivision three of this section, the public health and health
 18 planning council shall consider any past violations of state or federal
 19 rules, regulations or statutes relating to employer-employee relations,
 20 workplace safety, collective bargaining or any other labor related prac-
 21 tices, obligations or imperatives. The public health and health planning
 22 council shall give substantial weight to violations of the provisions of
 23 this chapter concerning nurse staff and supportive staff ratios.

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

26 3. In determining whether to issue or renew an operating certificate
 27 to an applicant seeking to operate, or operating, a hospital in accord-
 28 ance with this article, the commissioner shall consider any past
 29 violations of state or federal rules, regulations or statutes relating
 30 to employer-employee relations, workplace safety, collective bargaining
 31 or any other labor related practices, obligations or imperatives. The
 32 public health and health planning council shall give substantial weight
 33 to violations of the provisions of this chapter concerning nurse staff
 34 and supportive staff ratios.

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

37 § 2895-b. Nursing home staffing levels. 1. Definitions. As used in
 38 this section, the following terms shall have the following meanings:

39 (a) "Certified nurse aide" means any person included in the nursing
 40 home nurse aide registry pursuant to section twenty-eight hundred
 41 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 nursing home council; powers and duties. The
 47 commissioner shall: Appoint a nursing home council consisting of thir-
 48 teen members. No less than two members shall be direct care licensed
 49 practical nurses, no less than two members shall be direct care certi-
 50 fied nurse assistants and no less than one member shall be a direct
 51 care registered professional nurse. The council shall also include no
 52 less than one representative each of recognized or certified collective
 53 bargaining agents of registered nurses, of non-registered nurse direct
 54 care staff and a representative of nursing professional associations.
 55 The council shall also include no less than two representatives of nurs-
 56 ing home operators, two representatives of nursing home nurse adminis-

1 trators and one representative of consumers. The nursing home council
2 shall advise the commissioner in the development of regulations relating
3 to the staffing standards under this section; and may from time to time,
4 report to the governor, the legislature, the public and the commissioner
5 any recommendations regarding staffing levels in nursing homes.

6 3. Staffing standards. (a) The commissioner, in consultation with the
7 council, shall, by regulation, establish staffing standards for nursing
8 home minimum staffing levels to meet applicable standards of service and
9 care and to provide services to attain or maintain the highest practica-
10 ble physical, mental, and psychosocial well-being of each resident of
11 the facility. The commissioner shall also require by regulation that
12 every nursing home maintain records on its staffing levels, report on
13 such records to the department, and make such records available for
14 inspection by the department.

15 (b) Every nursing home shall:

16 (i) comply with the staffing standards under this section; and

17 (ii) employ sufficient staffing levels to meet applicable standards of
18 service and care and to provide service and care and to provide services
19 to attain or maintain the highest practicable physical, mental, and
20 psychosocial well-being of each resident of the facility.

21 (c) Subject to subdivision five of this section, staffing standards
22 under this section shall, at a minimum, be the staffing standards under
23 subdivision four of this section.

24 (d) In determining compliance with the staffing standards under this
25 section, an individual shall not be counted while performing services
26 that are not direct nursing care, such as administrative services, food
27 preparation, housekeeping, laundry, maintenance services, or other
28 activities that are not direct nursing care.

29 4. Statutory standard. Beginning two years after the effective date
30 of this section, every nursing home shall maintain a staffing ratio
31 equal to at least the following:

32 (a) 2.8 hours of care per resident per day by a certified nurse aide;

33 (b) 1.3 hours of care per resident per day by a licensed practical
34 nurse or a registered nurse;

35 (c) 0.75 hours of care per resident per day by a registered nurse; the
36 minimum of 0.75 hours of care per resident provided by a registered
37 nurse shall be divided among all shifts to ensure an appropriate level
38 of registered nurse care twenty-four hours per day, seven days a week,
39 to meet resident needs; and

40 (d) Nursing homes that care for subacute patients shall maintain at a
41 minimum, the following direct-care nurse-to-patient ratio: one nurse to
42 five patients.

43 5. Any nursing home that violates the rights of an employee pursuant
44 to an adopted work assignment policy under this section may be held
45 liable to such employee in an action brought in a court of competent
46 jurisdiction for such legal or equitable relief as may be appropriate to
47 effectuate the purposes of the safe staffing requirements, including but
48 not limited to reinstatement, promotion, lost wages and benefits, and
49 compensatory and consequential damages resulting from the violation
50 together with an equal amount in liquidated damages. The court in such
51 action shall, in addition to any judgment awarded to a prevailing plain-
52 tiff, award reasonable attorneys' fees and costs of action to be paid by
53 the defendant. An employee's right to institute a private action pursu-
54 ant to this subdivision shall not be limited by any other right granted
55 by the safe staffing requirements.

1 6. Public disclosure of staffing levels. (a) A nursing home shall post
2 information regarding nurse staffing that the facility is required to
3 make available to the public under section twenty-eight hundred five-t
4 of this chapter. Information under this paragraph shall be displayed in
5 a form approved by the department and be posted in a manner which is
6 visible and accessible to residents, their families and the staff, as
7 required by the commissioner.

8 (b) A nursing home shall post a summary of this section, provided by
9 the department, in proximity to each posting required by paragraph (a)
10 of this subdivision.

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

17 § 8. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law. Effective immediately, the addition, amend-
19 ment and/or repeal of any rule or regulation necessary for the implemen-
20 tation of this act on its effective date are authorized to be made and
21 completed on or before such effective date.