

# STATE OF NEW YORK

7445

2021-2022 Regular Sessions

## IN ASSEMBLY

May 10, 2021

Introduced by M. of A. JENSEN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing evidence-based, flexible staffing models for general hospitals and nursing homes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new article  
2 28-F to read as follows:

### ARTICLE 28-F

#### SAFE STAFFING IN HOSPITALS AND NURSING HOMES

#### Section 2900. Definitions.

2900-a. Commission on hospital staffing.

2900-b. Hospital staffing models and requirements.

2900-c. Commission on nursing home staffing.

2900-d. Nursing home staffing models and requirements.

§ 2900. Definitions. For the purposes of this article, the term:

11 1. "Hospital" means a general hospital as defined in section twenty-  
12 eight hundred one of this chapter.

13 2. "Nursing home" means a nursing home as defined in section twenty-  
14 eight hundred one of this chapter.

15 3. "Nurse" means a registered professional nurse or licensed practical  
16 nurse licensed pursuant to article one hundred thirty-nine of the educa-  
17 tion law.

18 4. "Allied healthcare professional" means a person, other than a  
19 nurse, physician, physician assistant, specialist assistant, or nurse  
20 practitioner, who is licensed or certified to practice a healthcare  
21 profession under title eight of the education law, acting within the  
22 scope of his or her practice.

23 5. "Direct-care nurse" and "direct-care nursing staff" means any nurse  
24 who has principal responsibility to oversee or carry out medical regi-  
25 mens, nursing, or other bedside care for one or more patients.

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

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1 6. "Non-nursing direct-care staff" means any employee who is not a  
2 nurse, allied healthcare professional, physician, physician assistant,  
3 specialist assistant, or nurse practitioner whose principal responsibil-  
4 ity is to carry out patient care for one or more patients or provides  
5 direct assistance in the delivery of patient care.

6 § 2900-a. Commission on hospital staffing. 1. There shall be estab-  
7 lished within the department a commission on hospital staffing to be  
8 composed of fifteen members appointed by the governor, with ten of these  
9 members appointed as follows:

10 (a) three members upon the recommendation of the temporary president  
11 of the senate;

12 (b) two members upon the recommendation of the minority leader of the  
13 senate;

14 (c) three members upon the recommendation of the speaker of the assem-  
15 bly; and

16 (d) two members upon the recommendation of the minority leader of the  
17 assembly.

18 2. The commission's membership shall contain:

19 (a) the commissioner or his or her designee;

20 (b) seven nurses, of whom at least four shall be direct-care nurses  
21 and at least two of whom shall be representative of recognized or certi-  
22 fied collective bargaining agents of non-nursing direct care staff;

23 (c) two representatives of non-nursing direct-care staff, of whom at  
24 least one shall be a representative of recognized or certified collec-  
25 tive bargaining agents of non-nursing direct care staff;

26 (d) three representatives of hospital administrators; and

27 (e) two representatives of allied health professionals.

28 3. Vacancies in the membership of the commission shall be filled by  
29 the appropriate appointing authority. The governor shall select a chair-  
30 person from among the members of the commission. Membership on the  
31 commission shall be reflective of the diversity of the state's popu-  
32 lation including, but not limited to, the various geographic areas and  
33 population densities throughout the state.

34 4. The commission shall meet on at least an annual basis, or at the  
35 request of the commissioner, to review and update the hospital staffing  
36 models created pursuant to section twenty-nine hundred-b of this arti-  
37 cle.

38 § 2900-b. Hospital staffing models and requirements. 1. The commis-  
39 sioner, after consulting with the commission on hospital staffing estab-  
40 lished pursuant to section twenty-nine hundred-a of this article, shall  
41 promulgate regulations establishing hospital staffing models.

42 2. These models shall:

43 (a) be based on the best available evidence regarding staffing and  
44 patient safety;

45 (b) provide hospitals with the opportunity to adjust staffing levels  
46 in response to the relative skill of the professional staff and the  
47 current acuity of the patients;

48 (c) address the patient care roles played by direct-care nursing  
49 staff, non-nursing direct-care staff, and allied health professionals;  
50 and

51 (d) be adaptable to the relative availability of staff in the regional  
52 labor market where the facility is located.

53 § 2900-c. Commission on nursing home staffing. 1. There shall be  
54 established within the department a commission on nursing home staffing  
55 to be composed of fifteen members appointed by the governor, with ten of  
56 these members appointed as follows:

1 (a) three members upon the recommendation of the temporary president  
2 of the senate;

3 (b) two members upon the recommendation of the minority leader of the  
4 senate;

5 (c) three members upon the recommendation of the speaker of the assem-  
6 bly; and

7 (d) two members upon the recommendation of the minority leader of the  
8 assembly.

9 2. The commission's membership shall contain:

10 (a) the commissioner or his or her designee;

11 (b) seven nurses, of whom at least four shall be direct-care nurses  
12 and at least two of whom shall be representative of recognized or certi-  
13 fied collective bargaining agents of non-nursing direct care staff;

14 (c) two representatives of non-nursing direct-care staff, of whom at  
15 least one shall be a representative of recognized or certified collec-  
16 tive bargaining agents of non-nursing direct care staff;

17 (d) three representatives of nursing home operators; and

18 (e) two representatives of allied health professionals.

19 3. Vacancies in the membership of the commission shall be filled by  
20 the appropriate appointing authority. The governor shall select a chair-  
21 person from among the members of the commission. Membership on the  
22 commission shall be reflective of the diversity of the state's popu-  
23 lation including, but not limited to, the various geographic areas and  
24 population densities throughout the state.

25 4. The commission shall meet on at least an annual basis, or at the  
26 request of the commissioner, to review and update the nursing home  
27 staffing models created pursuant to section twenty-nine hundred-d of  
28 this article.

29 § 2900-d. Nursing home staffing models and requirements. 1. The  
30 commissioner, after consulting with the commission on nursing home  
31 staffing established pursuant to section twenty-nine hundred-c of this  
32 article, shall promulgate regulations establishing nursing home staffing  
33 models.

34 2. These models shall:

35 (a) be based on the best available evidence regarding staffing and  
36 patient safety;

37 (b) provide nursing homes with the opportunity to adjust staffing  
38 levels in response to the relative skill of the professional staff and  
39 the current acuity of the patients;

40 (c) address the patient care roles played by direct-care nursing  
41 staff, non-nursing direct-care staff, and allied health professionals;  
42 and

43 (d) be adaptable to the relative availability of staff in the regional  
44 labor market where the facility is located.

45 § 2. Severability. If any provision of this act, or any application of  
46 any provision of this act, is held to be invalid, or ruled by any feder-  
47 al agency to violate or be inconsistent with any applicable federal law  
48 or regulation, that shall not affect the validity or effectiveness of  
49 any other provision of this act, or of any other application of any  
50 provision of this act.

51 § 3. This act shall take effect one year after it shall have become a  
52 law. Effective immediately, the addition, amendment and/or repeal of any  
53 rule or regulation necessary for the implementation of this act on its  
54 effective date are authorized to be made and completed on or before such  
55 effective date.