STATE OF NEW YORK

2800--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. HEVESI, WEPRIN, ARDILA, SIMON, BERGER, JENSEN, DAVILA -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing staffing standards for physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, respiratory therapists, respiratory therapy technicians, and recreational therapists at nursing homes

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

Section 1. Subdivision 1 of section 2895-b of the public health law is amended by adding four new paragraphs (e), (f), (g) and (h) to read as follows:

(e) "Physical therapist or physical therapist assistant" means any person licensed or certified as such pursuant to article one hundred thirty-six of the education law.

(f) "Occupational therapist or occupational therapy assistant" means any person licensed or otherwise authorized to practice as such pursuant to article one hundred fifty-six of the education law.

(g) "Respiratory therapist" or "respiratory therapy technician" means any person licensed or otherwise authorized to practice as such pursuant to article one hundred sixty-four of the education law.

(h) "Recreational therapist" means any person with a bachelor's degree with certification as a certified therapeutic recreation specialist from the national council for therapeutic recreation certification.

§ 2. Paragraph (h) of subdivision 2 of section 2895-b of the public health law, as added by chapter 156 of the laws of 2021, is amended to read as follows:

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

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(h) The minimum staffing standard includes the hours which are required to be reported by a nursing home to the federal Centers for Medicare and Medicaid Services through the payroll based journal for long-term care for certified [~~nursing assistants and~~] nurses aides, licensed nurses, physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, respiratory therapists, respiratory therapy technicians, and recreational therapists. In determining compliance with the staffing standards under this subdivision, an individual shall not be counted while performing administrative services as defined in the payroll based journal for long-term care facilities.

§ 3. Paragraphs (a) and (b) of subdivision 3 and paragraph (a) of subdivision 4 of section 2895-b of the public health law, as added by chapter 156 of the laws of 2021, are amended to read as follows:

(a) Beginning January first, two thousand twenty-two every nursing home shall maintain daily average staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide, a licensed nurse [~~or~~], a nurse aide, a physical therapist, a physical therapist assistant, an occupational therapist, an occupational therapy assistant, a respiratory therapist, a respiratory therapy technician, or a recreational therapist, or any combination thereof; provided that out of such 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide [~~or~~], a nurse aide, a physical therapist assistant, an occupational therapy assistant or a respiratory therapy technician, or any combination thereof and no less than 1.1 hours of care per resident per day shall be provided by a licensed nurse, a physical therapist, an occupational therapist, a respiratory therapist or a recreational therapist, or any combination thereof.

(b) Beginning January first, two thousand twenty-three and thereafter every nursing home shall maintain daily average staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide [~~or~~], a licensed nurse, a physical therapist, a physical therapist assistant, an occupational therapist, an occupational therapy assistant, a respiratory therapist, a respiratory therapy technician or a recreational therapist, or any combination thereof; provided that out of such 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide, a physical therapist assistant, an occupational therapy assistant or a respiratory therapy technician or any combination thereof, and no less than 1.1 hours of care per resident per day shall be provided by a licensed nurse, a physical therapist, an occupational therapist, a respiratory therapist, or a recreational therapist, or any combination thereof.

(a) A nursing home shall post information regarding nurse staffing that the facility is required to make available to the public under section twenty-eight hundred five-t of this chapter. Such posting shall also include therapist staffing levels as set forth in this section. Information under this paragraph shall be displayed in a form approved by the department and be posted in a manner which is visible and accessible to residents, their families and the staff, as required by the commissioner.

§ 4. This act shall take effect immediately.