

STATE OF NEW YORK

9580

IN SENATE

May 16, 2024

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Health

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:

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

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

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

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

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

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

19 (h) The minimum staffing standard includes the hours which are
20 required to be reported by a nursing home to the federal Centers for
21 Medicare and Medicaid Services through the payroll based journal for
22 long-term care for certified [~~nursing assistants and~~ nurses aides,
23 licensed nurses, physical therapists, physical therapist assistants,
24 occupational therapists, occupational therapy assistants, respiratory
25 therapists, respiratory therapy technicians, and recreational

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

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1 therapists. In determining compliance with the staffing standards under
2 this subdivision, an individual shall not be counted while performing
3 administrative services as defined in the payroll based journal for
4 long-term care facilities.

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

8 (a) Beginning January first, two thousand twenty-two every nursing
9 home shall maintain daily average staffing hours equal to 3.5 hours of
10 care per resident per day by a certified nurse aide, a licensed nurse
11 [~~or~~], a nurse aide, a physical therapist, a physical therapist assist-
12 ant, an occupational therapist, an occupational therapy assistant, a
13 respiratory therapist, a respiratory therapy technician, or a recre-
14 ational therapist, or any combination thereof; provided that out of such
15 3.5 hours, no less than 2.2 hours of care per resident per day shall be
16 provided by a certified nurse aide [~~or~~], a nurse aide, a physical thera-
17 apist assistant, an occupational therapy assistant or a respiratory ther-
18 apy technician, or any combination thereof and no less than 1.1 hours of
19 care per resident per day shall be provided by a licensed nurse, a phys-
20 ical therapist, an occupational therapist, a respiratory therapist or a
21 recreational therapist, or any combination thereof.

22 (b) Beginning January first, two thousand twenty-three and thereafter
23 every nursing home shall maintain daily average staffing hours equal to
24 3.5 hours of care per resident per day by a certified nurse aide [~~or~~], a
25 licensed nurse, a physical therapist, a physical therapist assistant, an
26 occupational therapist, an occupational therapy assistant, a respiratory
27 therapist, a respiratory therapy technician or a recreational therapist,
28 or any combination thereof; provided that out of such 3.5 hours, no less
29 than 2.2 hours of care per resident per day shall be provided by a
30 certified nurse aide, a physical therapist assistant, an occupational
31 therapy assistant or a respiratory therapy technician or any combination
32 thereof, and no less than 1.1 hours of care per resident per day shall
33 be provided by a licensed nurse, a physical therapist, an occupational
34 therapist, a respiratory therapist, or a recreational therapist, or any
35 combination thereof.

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

44 § 4. This act shall take effect immediately.