

# STATE OF NEW YORK

2800

2023-2024 Regular Sessions

## IN ASSEMBLY

January 27, 2023

Introduced by M. of A. HEVESI, D. ROSENTHAL -- read once and referred 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 therapist assistants, 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 three new paragraphs (e), (f) and (g) to read as follows:

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

(g) "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:

(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]~~, physical therapists, physical therapist assistants, occupational therapists, occupational therapist assistants, and recreational therapists. In determining compliance with the staffing standards under this subdivision, an individual shall not be counted while performing administra-

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

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1 tive services as defined in the payroll based journal for long-term care  
2 facilities.

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

6 (a) Beginning January first, two thousand twenty-two every nursing  
7 home shall maintain daily average staffing hours equal to 3.5 hours of  
8 care per resident per day by a certified nurse aide, a licensed nurse  
9 ~~[ex]~~, a nurse aide, a physical therapist, a physical therapist assist-  
10 ant, an occupational therapist, an occupational therapy assistant or a  
11 recreational therapist; provided that out of such 3.5 hours, no less  
12 than 2.2 hours of care per resident per day shall be provided by a  
13 certified nurse aide ~~[ex]~~, a nurse aide, a physical therapist assistant,  
14 an occupational therapy assistant or recreational therapist, and no less  
15 than 1.1 hours of care per resident per day shall be provided by a  
16 licensed nurse, a physical therapist, occupational therapist or recre-  
17 ational therapist.

18 (b) Beginning January first, two thousand twenty-three and thereafter  
19 every nursing home shall maintain daily average staffing hours equal to  
20 3.5 hours of care per resident per day by a certified nurse aide ~~[ex]~~, a  
21 licensed nurse, a physical therapist, a physical therapist assistant, an  
22 occupational therapist, an occupational therapist assistant and a recre-  
23 ational therapist; provided that out of such 3.5 hours, no less than 2.2  
24 hours of care per resident per day shall be provided by a certified  
25 nurse aide, a physical therapist assistant, an occupational therapy  
26 assistant or recreational therapist, and no less than 1.1 hours of care  
27 per resident per day shall be provided by a licensed nurse, a physical  
28 therapist, a physical therapist assistant, an occupational therapist, an  
29 occupational therapy assistant or a recreational therapist.

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

38 § 4. This act shall take effect immediately.