

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 494 Session of 2009

INTRODUCED BY P. COSTA, BELFANTI, BISHOP, BRENNAN, BEYER, CARROLL, CONKLIN, CRUZ, DeLUCA, FABRIZIO, FRANKEL, GIBBONS, GOODMAN, GROVE, GRUCELA, HALUSKA, KORTZ, MAHONEY, M. O'BRIEN, RAPP, SIPTROTH, SOLOBAY, STABACK, THOMAS, WALKO, WHITE AND YUDICHAK, FEBRUARY 18, 2009

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES, FEBRUARY 18, 2009

AN ACT

1 Requiring long-term care nursing homes to maintain certain
2 staffing levels in order to protect the health and safety of
3 residents and employees; providing for enforcement by the
4 Department of Health; and imposing civil penalties.

5 The General Assembly finds and declares as follows:

6 (1) The Commonwealth has a large and growing population
7 of senior and disabled persons who require nursing facility
8 care.

9 (2) Significant staffing resources are necessary to
10 provide quality care to our senior and disabled citizens who
11 reside in nursing homes.

12 (3) Long-term care nursing facilities which receive
13 public money should be required to provide at all times
14 staffing resources to meet the minimum levels necessary to
15 provide quality care to each resident.

16 (4) Nursing facilities which receive public money have a
17 responsibility to report to residents, their families and the

1 taxpayers of this Commonwealth the staffing levels that they
2 provide for the residents in their care.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Nursing Home
7 Staffing Level Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Afternoon shift." A shift commencing no earlier than 2 p.m.
13 and no later than 4 p.m.

14 "Department." The Department of Health of the Commonwealth.

15 "Licensed nurse." A registered nurse or licensed practical
16 nurse.

17 "Morning shift." A shift commencing no earlier than 6 a.m.
18 and no later than 8 a.m.

19 "Nighttime shift." A shift commencing no earlier than 10
20 p.m. and no later than 12 midnight.

21 "Shift." A work period consisting of approximately eight
22 hours unless otherwise established under a collective bargaining
23 agreement.

24 Section 3. Minimum staffing standards for unlicensed and
25 licensed nursing personnel.

26 (a) General rule.--The department shall not issue or renew a
27 license of a long-term care nursing facility unless that
28 facility employs nursing personnel sufficient in number to
29 provide continuous 24-hour nursing care and service sufficient
30 to meet the needs of each resident in the facility.

(b) Nurse aide ratios.--A long-term care nursing facility shall maintain a ratio of residents to nurse aides of no more than:

(1) Eight to one during a morning shift.

(2) Ten to one during an afternoon shift.

(3) Fifteen to one during a nighttime shift.

(c) Licensed nurse ratios.--A long-term care nursing facility shall maintain a ratio of residents to licensed nurses of no more than:

(1) Fifteen to one during a morning shift.

(2) Twenty-five to one during an afternoon shift.

(3) Thirty-five to one during a nighttime shift.

(d) Restrictions on nursing staff services.--No employee designated as a member of the nursing staff shall provide the following services:

(1) Food preparation.

(2) Housekeeping.

(3) Laundry.

(4) Maintenance.

A person employed to provide those services shall not provide nursing care to residents and shall not be counted in determining the ratios in subsections (b) and (c).

Section 4. Public right to staffing information and posting.

A long-term care nursing facility shall post for each wing and floor of the facility and for each shift, the current number of licensed and unlicensed nursing staff directly responsible for resident care and the current ratios of residents to staff, which show separately the number of residents to licensed nursing staff and the number of residents to unlicensed nursing staff. The information shall be posted for the most recently

1 concluded cost reporting period in the form of average daily
2 staffing ratios for that period. The information must be posted
3 in a manner which is visible and accessible to all residents,
4 their families, caregivers and potential consumers in each
5 facility.

6 Section 5. Enforcement.

7 (a) Civil penalty for staffing violation.--The department
8 shall impose a civil penalty upon any facility that fails to
9 meet the staffing requirements set forth in section 3. The
10 penalty shall be imposed for each day on which the failure
11 occurs.

12 (b) Amount of penalty.--The amount of penalty in subsection
13 (a) shall be determined as follows:

14 (1) For deficiencies in staffing which constitute
15 immediate jeopardy to resident health or safety and for
16 repeat deficiencies when a monetary penalty has been
17 previously imposed, the amount of the penalty shall be not
18 less than \$3,050 nor more than \$10,000 for each day of the
19 failure.

20 (2) For deficiencies in staffing which do not constitute
21 immediate jeopardy to resident health or safety, the amount
22 of the penalty shall be not less than \$50 nor more than
23 \$3,000 for each day of the failure.

24 (c) Civil penalty for posting violation.--The department
25 shall impose a civil penalty upon any facility that fails to
26 meet the posting requirements set forth in section 4. The
27 penalty shall be in the amount of \$100 for each day upon which
28 the facility fails to fully satisfy the posting requirements of
29 this act.

30 (d) Legal presumption.--In addition to the penalty set forth

1 in subsections (a) and (b), in any action brought by or on
2 behalf of a resident of the facility, the resident's heirs, or
3 both, for negligent infliction of harm or lack of adequate care,
4 a failure to meet the staffing requirements of section 1 shall
5 be presumed a contributory cause of any injury sustained by a
6 resident.

7 Section 6. Effective date.

8 This act shall take effect in 60 days.