
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 649 Session of
2007

INTRODUCED BY WASHINGTON, HUGHES, COSTA, TARTAGLIONE, O'PAKE,
STOUT, RAFFERTY, KITCHEN, LAVALLE, FONTANA, FERLO,
C. WILLIAMS AND BOSCOLA, MARCH 23, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, MARCH 23, 2007

AN ACT

1 Requiring long-term care nursing facilities to maintain certain
2 staffing levels in order to protect the health and safety of
3 residents and employees; providing for powers and duties of
4 the 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
18 taxpayers of this Commonwealth the staffing levels that they

1 provide for the residents in their care.

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

4 Section 1. Short title.

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

7 Section 2. Definitions.

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

11 "Acuity system." An established measurement instrument
12 which:

13 (1) Predicts direct care requirements for each
14 individual resident based on severity of resident illness,
15 need for specialized equipment and technology, intensity of
16 nursing interventions required and the complexity of clinical
17 nursing judgment needed to design, implement and evaluate a
18 resident's care plan.

19 (2) Details the amount of direct care needed, both in
20 number of direct care nurses and skill mix of care personnel
21 required, on a daily basis, for each resident in a facility.

22 (3) Is stated in terms that readily can be used and
23 understood by direct care staff.

24 (4) Takes into consideration the resident care services
25 provided not only by registered nurses but also by licensed
26 practical nurses, nurse aides and other care personnel.

27 "Afternoon shift." A shift commencing no earlier than 2 p.m.
28 and no later than 4 p.m.

29 "Assessment tool." A measurement system which compares the
30 staffing level in a facility against actual resident care

1 requirements in order to review the accuracy of an acuity
2 system.

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

4 "Facility." A long-term care nursing facility.

5 "Licensed nurse." A registered nurse or licensed practical
6 nurse.

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

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

11 "Nurse aide." An individual who provides nursing or nursing-
12 related services to residents in a facility. The term does not
13 include an individual who is a licensed health professional or
14 volunteers to provide such services without monetary
15 compensation.

16 "Shift." A work period consisting of approximately eight
17 hours unless otherwise established under a collective bargaining
18 agreement.

19 Section 3. Minimum staffing standards for nurse aides and
20 licensed nursing personnel.

21 (a) General rule.--Beginning two years after the effective
22 date of this section, the department shall not issue or renew a
23 license of a facility unless that facility employs nursing
24 personnel sufficient in number as set forth in this section to
25 provide continuous 24-hour nursing care and service necessary to
26 meet the needs of each resident in the facility.

27 (b) Minimum allocations.--

28 (1) The ratios set forth in subsections (c) and (d)
29 shall constitute the minimum number of nurse aides and
30 licensed nurses to be allocated on each shift. Additional

1 nurse aides and licensed nurses shall be added and the ratio
2 adjusted to ensure adequate staffing of each shift and each
3 care unit in accordance with an approved acuity system.

4 (2) Nothing in this section shall be construed to
5 preclude the department from establishing and requiring a
6 staffing plan to have higher staff-to-resident ratios than
7 those set forth in subsections (c) and (d).

8 (c) Nurse aide ratios.--A facility shall maintain a ratio of
9 residents to nurse aides of no more than:

10 (1) Eight to one during a morning shift.

11 (2) Ten to one during an afternoon shift.

12 (3) Fifteen to one during a nighttime shift.

13 (d) Licensed nurse ratios.--A facility shall maintain a
14 ratio of residents to licensed nurses, either registered nurses
15 or licensed practical nurses, of no more than:

16 (1) Fifteen to one during a morning shift.

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

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

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

22 (1) Food preparation.

23 (2) Housekeeping.

24 (3) Laundry.

25 (4) Maintenance.

26 (f) Restrictions on other services.--A person employed to
27 provide the services under subsection (e) shall not provide
28 nursing care to residents and shall not be counted in
29 determining the ratios in subsections (c) and (d).

30 Section 4. Facility implementation of acuity system.

1 A facility shall implement an acuity system within two years
2 of the effective date of this section in accordance with this
3 act and regulations promulgated under this act.

4 Section 5. Public right to staffing information.

5 (a) General rule.--A facility shall post for each care unit
6 of the facility and for each shift the current number of
7 licensed nurses and nurse aides directly responsible for
8 resident care and any other staff directly responsible for
9 resident care and the current ratios of residents to staff,
10 which show separately the number of residents to licensed nurses
11 and the number of residents to nurse aides.

12 (b) Posting requirements.--The information shall be posted:

13 (1) For the most recently concluded cost reporting
14 period in the form of average daily staffing ratios for that
15 period.

16 (2) In a manner and form which is visible, easy to read
17 and to understand, and accessible to all residents, their
18 families, caregivers and potential consumers in the facility.

19 Section 6. Enforcement.

20 (a) Civil penalty for staffing violation.--The department
21 shall impose a civil penalty upon any facility that fails to
22 meet the staffing requirements set forth in section 3. The
23 penalty shall be imposed for each day on which the failure
24 occurs.

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

27 (1) For deficiencies in staffing which constitute
28 immediate jeopardy as determined by the department to
29 resident health or safety and for repeat deficiencies when a
30 monetary penalty has been previously imposed, the amount of

1 the penalty shall be not less than \$3,000 nor more than
2 \$10,000 for each day of such failure.

3 (2) For deficiencies in staffing which do not constitute
4 immediate jeopardy to resident health or safety, the amount
5 of the penalty shall be not less than \$50 nor more than
6 \$3,000 for each day of such failure.

7 (c) Civil penalty for posting violation.--The department
8 shall impose a civil penalty upon any facility that fails to
9 meet the posting requirements set forth in section 5. The
10 penalty shall be in the amount of \$100 for each day upon which
11 the facility fails to fully satisfy the posting requirements of
12 this act.

13 (d) Legal presumption.--In addition to the penalty set forth
14 in subsections (a) and (b), in any action brought by or on
15 behalf of a resident of a facility, the resident's heirs, or
16 both, for negligent infliction of harm or lack of adequate care,
17 a failure to meet the staffing requirements of section 3 shall
18 be presumed a contributory cause of any injury sustained by a
19 resident.

20 Section 7. Regulations.

21 The department shall promulgate rules and regulations
22 necessary to carry out this act, which shall include the
23 following:

24 (1) Licensed nurse and nurse aide staff-to-resident
25 ratios.

26 (2) Acuity system parameters to be met by a facility,
27 including, but not limited to, the following:

28 (i) The assessment of resident acuity through the
29 minimum data set and other factors the department may
30 deem appropriate.

1 (ii) The classification of facility residents by
2 specific categories based on the resource utilization
3 group system and other factors the department may deem
4 appropriate. In establishing the specific categories, the
5 department shall consider a separate assessment and
6 categorization methodology for special populations
7 including, but not limited to, residents with behavioral
8 health problems, Alzheimer's disease and developmental
9 disabilities.

10 (3) The process for approval and monitoring compliance
11 of acuity systems. The regulations may include a system for
12 class approval of acuity systems.

13 (4) An accessible and confidential system to report the
14 failure to comply with requirements of this act and public
15 access to information regarding reports of inspections,
16 results, deficiencies and corrections under this act.

17 (5) Enforcement procedures.

18 Section 8. Effective date.

19 This act shall take effect in 60 days.