

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1988 Session of
2014

INTRODUCED BY NEUMAN, O'BRIEN, PASHINSKI, FABRIZIO, DAVIS,
KORTZ, P. DALEY, MURT, WHITE, BISHOP, V. BROWN, DeLUCA,
CARROLL, DiGIROLAMO, FREEMAN, HARHAI, BIZZARRO, HARKINS,
HAGGERTY, FLYNN, MUNDY AND GAINNEY, JANUARY 29, 2014

REFERRED TO COMMITTEE ON HEALTH, JANUARY 29, 2014

AN ACT

1 Requiring long-term care nursing facilities to maintain certain
2 nurse aide staffing levels in order to protect the health and
3 safety of residents and employees; providing for powers and
4 duties of the Department of Health; and imposing civil
5 penalties.

6 WHEREAS, The Commonwealth has a large and growing population
7 of senior and disabled persons who require nursing facility
8 care; and

9 WHEREAS, Significant staffing resources are necessary to
10 provide quality care to our senior and disabled citizens who
11 reside in nursing homes; and

12 WHEREAS, Most of the direct care provided to nursing home
13 residents is by nurse aides, and long-term care nursing
14 facilities that receive public money should be required to
15 provide at all times staffing resources to meet the minimum
16 levels necessary to provide quality care to each resident; and

17 WHEREAS, Nursing facilities that receive public money have a
18 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 Long-term
7 Care Facility Nurse Aide Staffing 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 "Department." The Department of Health of the Commonwealth.

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

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

16 "Nurse aide." An individual who provides nursing or nursing-
17 related services to residents in a facility. The term does not
18 include an individual who is a licensed health professional or
19 volunteers who provide those services without monetary
20 compensation.

21 Section 3. Minimum staffing standards for nurse aides.

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

28 (b) Minimum hours.--The department shall establish a minimum
29 number of hours that nurse aide care shall be provided for a
30 patient during each 24-hour period. The total number of hours of

1 nurse aide care provided in a 24-hour period shall, when totaled
2 for the entire facility, be a minimum of at least 2.25 hours of
3 direct care for each resident.

4 (c) Review of Statewide median.--At least once every five
5 years, the department shall review the Statewide median of hours
6 of reported nurse aide care per resident day and may adjust this
7 minimum standard upward depending on the Statewide median. If
8 the department adjusts the minimum standard upward, facilities
9 will have 90 days to comply.

10 (d) Regulations.--The minimum certified nurse aide hours
11 standard does not replace the standard of 2.7 hours of nursing
12 care per resident per day set forth in 28 Pa. Code § 211.12
13 (relating to nursing services).

14 (e) Restrictions on nurse aide services.--No employee
15 designated as a nurse aide shall count any time performing
16 nonnursing services toward the nurse aide minimum hours
17 requirement, including, but not limited to:

18 (1) Food preparation.

19 (2) Housekeeping.

20 (3) Laundry.

21 (4) Maintenance.

22 Section 4. Enforcement.

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

28 (b) Amount of penalty.--The amount of penalty under
29 subsection (a) shall be determined as follows:

30 (1) For deficiencies in staffing that constitute

1 immediate jeopardy as determined by the department to
2 resident health or safety and for repeat deficiencies when a
3 monetary penalty has been previously imposed, the amount of
4 the penalty shall be not less than \$3,000 nor more than
5 \$10,000 for each day of the failure.

6 (2) For deficiencies in staffing that do not constitute
7 immediate jeopardy to resident health or safety, the amount
8 of the penalty shall be not less than \$50 nor more than
9 \$3,000 for each day of the failure.

10 (c) Legal presumption.--In addition to the penalties under
11 subsections (a) and (b), in any action brought by or on behalf
12 of a resident of a facility, the resident's heirs, or both, for
13 negligent infliction of harm or lack of adequate care, a failure
14 to meet the staffing requirements of section 3 shall be presumed
15 a contributory cause of an injury sustained by a resident.

16 Section 5. Regulations.

17 The department shall promulgate rules and regulations
18 necessary to administer and enforce this act, which shall
19 include, but not be limited to, the following:

20 (1) Minimum nurse aide hours per resident day.

21 (2) An accessible and confidential system to report the
22 failure to comply with requirements of this act and public
23 access to information regarding reports of inspections,
24 results, deficiencies and corrections under this act.

25 Section 6. Effective date.

26 This act shall take effect in 60 days.