



Senate

General Assembly

File No. 316

February Session, 2002

Substitute Senate Bill No. 135

Senate, April 4, 2002

The Committee on Public Health reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NURSING HOME STAFFING LEVELS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-522 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 [(a) On or before December 1, 1975, the commissioner shall, in
4 accordance with chapter 54, adopt regulations]

5 (a) The commissioner shall adopt regulations, in accordance with
6 chapter 54, concerning the health, safety and welfare of patients in
7 nursing home facilities, classification of violations relating to such
8 facilities, medical staff qualifications, record-keeping, nursing service,
9 dietary service, personnel qualifications and general operational
10 conditions.

11 (b) (1) As used in this subsection, "direct care" means care provided
12 to residents of a chronic and convalescent nursing home or a rest home
13 with nursing supervision, including, but not limited to, face-to-face

14 assessment, administration of medication or treatments, feeding,
15 bathing, toileting, dressing, lifting and moving such residents, but does
16 not include food preparation, housekeeping or laundry services,
17 except when such services are required to meet the needs of any such
18 resident on an individual or situational basis.

19 (2) The department shall not issue a license to or renew the license
20 of a chronic and convalescent nursing home or a rest home with
21 nursing supervision unless such facility employs sufficient nursing
22 personnel needed to provide continuous twenty-four-hour nursing
23 care and services to meet the needs of each resident in such facility.

24 (3) Not later than October 1, 2002, each licensed chronic and
25 convalescent nursing home and each licensed rest home with nursing
26 supervision shall maintain aggregate licensed nurse and nurse's aide
27 staffing levels at or above the following standards:

28 (A) Over a twenty-four-hour period, such facility shall provide not
29 less than 1.66 hours of direct care per resident given by nurse's aides;
30 and

31 (B) Over a twenty-four-hour period, such facility shall provide not
32 less than 0.7 hours of direct care per resident given by licensed nurses.

33 (4) Not later than October 1, 2003, each licensed chronic and
34 convalescent nursing home and each licensed rest home with nursing
35 supervision shall maintain aggregate licensed nurse and nurse's aide
36 staffing levels at or above the following standards:

37 (A) Over a twenty-four-hour period, such facility shall provide not
38 less than 2.0 hours of direct care per resident given by nurse's aides;
39 and

40 (B) Over a twenty-four-hour period, such facility shall provide not
41 less than 0.75 hours of direct care per resident given by licensed
42 nurses.

43 (5) The director of nurses for any such facility with a licensed bed

44 capacity of sixty-one or greater shall not be included in meeting the
45 requirements for direct care given by licensed nurses pursuant to
46 subparagraph (B) of subdivision (3) of this subsection and
47 subparagraph (B) of subdivision (4) of this subsection. Any such
48 facility with a licensed bed capacity of one hundred twenty-one or
49 greater shall employ a full-time assistant director of nurses who shall
50 not be included in meeting the requirements for direct care given by
51 licensed nurses pursuant to subparagraph (B) of subdivision (3) of this
52 subsection and subparagraph (B) of subdivision (4) of this subsection.

53 (6) Any licensed chronic and convalescent nursing home or licensed
54 rest home with nursing supervision that fails to comply with the
55 minimum staffing requirements of subdivisions (3) and (4) of this
56 subsection on any day shall submit a report to the department,
57 identifying the day on which and the shift during which such
58 noncompliance occurred and specifying the reasons for and
59 circumstances surrounding such noncompliance. The report required
60 by this subdivision shall be submitted on a quarterly basis. If such
61 facility fails to submit any report required by this subdivision or
62 intentionally misrepresents the information contained in any such
63 report, or if the commissioner determines that there is sufficient
64 evidence to support a finding that there exists a pattern of
65 noncompliance by such facility with the minimum staffing
66 requirements of subdivisions (3) and (4) of this subsection, the
67 commissioner may take action against such facility in accordance with,
68 but not limited to, sections 19a-524 to 19a-528, inclusive.

69 [(b)] (c) Nursing home facilities may not charge the family or estate
70 of a deceased self-pay patient beyond the date on which such patient
71 dies. Nursing home facilities shall reimburse the estate of a deceased
72 self-pay patient within sixty days after the death of such patient, for
73 any advance payments made by or on behalf of the patient covering
74 any period beyond the date of death. Interest, in accordance with
75 subsection (a) of section 37-1, on such reimbursement shall begin to
76 accrue from the date of such patient's death.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	Dept of Social Services	-	Significant	Significant
GF - Cost	Dept of Public Health	-	Significant	Significant

Municipal Impact: None

Explanation

Passage of the bill will result in significant costs to both the Departments of Public Health (DPH) and Social Services (DSS). These costs are associated with increasing mandatory minimum staffing levels for chronic and convalescent nursing homes and rest homes with nursing supervision and monitoring their compliance with these new standards.

Department of Social Services

The following table compares the number of direct care hours per day required under current regulation with levels proposed in the bill.

Staff	Current	Proposed 10/1/02	Proposed 10/1/03 (HCFA Minimum)
Nurses Aides	1.26	1.66	2.0
Licensed Nurses	.64	.70	.75
Total	1.9	2.36	2.75

Adoption of these new standards will increase Medicaid payments by approximately \$6.9 million in FY 02 and \$13.2 million in FY 03. A corresponding increase in federal financial participation will result. It should be noted that sHB 5022 (the FY02 Deficiency Bill, as favorably reported by the Appropriations Committee) includes \$5 million to be carried forward to the FY03 budget to reflect increased Medicaid reimbursement due to adoption of higher staffing levels.

The bill also requires DSS to reimburse nursing homes at 95% of actual allowable costs for direct and indirect care. The bill further requires DSS to reimburse nursing homes with more than 90% Medicaid patient days an additional 5% of allowable costs. The Office of Fiscal Analysis estimates that this would result in an additional \$50 million in Medicaid expenditures annually.

Department of Public Health

The Department of Public Health will be required to collect, review and track quarterly data for 260 nursing homes as well as conduct analyses and on-site inspections when appropriate to determine whether adequate care is being provided. The agency will also be required to pursue disciplinary actions against non-compliant facilities. FY 03 costs of \$79,893 will be incurred to support these activities. Included in this sum is \$70,193 to support the three-quarter year salaries of one (1) Nurse Consultant and one (1) Clerk Typist and \$9,700 for associated equipment and other expenses. (These costs would be supplemented by \$29,685 in associated fringe benefits costs which are reflected under miscellaneous accounts administered by the Comptroller.)

In FY 04 and subsequent fiscal years an ongoing cost to DPH of \$99,691 will result. (This will be supplemented by \$39,580 in fringe benefits costs.)

No funding has been included under DPH's budget within sHB 5019 (the Revised FY 03 Appropriations Act, as favorably reported by the Appropriations Committee) to implement this bill's provisions.

OLR Bill Analysis

sSB 135

AN ACT CONCERNING NURSING HOME STAFFING LEVELS**SUMMARY:**

This bill (1) subjects nursing homes to loss of their license if they do not have enough staff to meet their residents' needs and (2) phases in higher minimum direct care staffing standards over two years. It requires homes that do not meet the standards on any day to report that fact and the surrounding circumstances to the Department of Public Health (DPH) on a quarterly basis. It allows the DPH commissioner to take certain enforcement actions against homes that fail to submit the reports or have a pattern of noncompliance with the minimum standards. Finally, the bill increases Medicaid reimbursement to nursing homes for direct and indirect care costs.

EFFECTIVE DATE: October 1, 2002

MINIMUM CARE STANDARDS***Non-issuance or Withdrawal of License***

The bill prohibits DPH from issuing or renewing a nursing home license unless the facility employs sufficient nursing personnel needed for continuous 24-hour nursing care and services to meet each resident's needs.

Direct Care Defined

For purposes of staffing levels, the bill defines "direct care" as care provided to residents that includes face-to-face assessment; administration of medication or treatments; and feeding, bathing, toileting, dressing, and lifting and moving residents. It does not include food preparation, housekeeping, or laundry services, except when these services are required to meet the needs of a resident on an individual or situational basis.

Minimum Direct Care Staffing Level Phase-in

DPH licenses two types of nursing homes: chronic and convalescent care nursing homes (CCNHS), which provide skilled nursing care, and rest homes with nursing supervision (RHNSs), which provide intermediate care. Current regulations set somewhat lesser minimum staffing standards for RHNSs than for CCNHs (see BACKGROUND).

The bill requires both types of nursing homes to maintain identical higher aggregate licensed nurse and nurse's aide staffing levels, over a 24-hour period, in a two-step phase-in (see COMMENT). The table below compares the current requirements to the proposed phase-in.

No. of Direct Care Hours per Patient Over a 24-hr. Period		
Start Date	Nurse's Aides	Licensed Nurses
Current CCNH	1.26 hrs.	.64 hrs.
Current RHNS	.56 hrs.	.31 hrs.
Proposed: (both types) 10/1/2002	1.66 hrs.	.70 hrs.
Proposed (both types): 10/1/2003	2.00 hrs.	.75 hrs.

Directors and Assistant Directors of Nurses

Under the bill, a facility with 61 or more beds cannot count its director of nurses in meeting the minimum staffing requirements for direct care from licensed nurses. Current regulations already have this provision.

The bill requires a facility with 121 or more beds to hire a full-time assistant director of nurses, who also cannot be included in meeting the direct care requirements. Current regulations already require facilities with 120 or more beds to hire an assistant director of nurses, but prohibit facilities with or 121 or more beds from counting directors and assistant directors of nurses in meeting minimum staff ratios.

STAFFING NONCOMPLIANCE REPORTS

The bill requires any licensed nursing home that fails to comply with these staffing minimums on any day to submit a report to DPH, on a quarterly basis, that contains (1) the day and shift when the

noncompliance occurred and (2) the reasons for and circumstances surrounding the noncompliance.

The bill allows the DPH commissioner to take certain enforcement actions (issuing citations and imposing civil penalties) if (1) the facility fails to submit this report or intentionally misrepresents the information contained in it, or (2) the commissioner determines that there is enough evidence to support a finding that the facility has a pattern of noncompliance.

MEDICAID REIMBURSEMENT

The bill requires the Department of Social Services to reimburse nursing homes at 95% of the actual, allowable costs for direct care and indirect care and, for homes that have more than 90% of their patient days paid for by Medicaid, an added 5% of allowable costs, excluding property and capital.

BACKGROUND

Current Connecticut Minimum Nurse Staffing Standards for Nursing Homes

Currently, minimum staffing requirements for CCNHs and RHNSs are set by regulation in the Public Health Code. The actual standards vary somewhat depending on whether the nursing home is a CCNH or an RHNS. Most of the nursing beds in the state are CCNHs. The nurse-to-resident hours per day are set separately for the periods from 7 a.m. to 9 p.m. and 9 p.m. to 7 a.m. and are less for RHNSs than for CCNHs, as shown below. (Under the bill, there is one standard for both types of nursing home and the requirement must be met over a 24-hour period.)

Direct Care Personnel	CCNH		RHNS	
	7 a.m. to 9 p.m.	9 p.m. to 7 a.m.	7 a.m. to 9 p.m.	9 p.m. to 7 a.m.
Licensed Nursing Personnel	.47 hpp* (28 min.)	.17 hpp (10 min.)	.23 hpp (14 min.)	.08 hpp (5 min.)
Total Nurses and Nurse Aide Personnel	1.40 hpp (1 hr. 24 min.)	.50 hpp (30 min.)	.70 hpp (42 min.)	.17 hpp (10 min.)

*hpp: hours per patient
Source: CT Regulations Section 19-13D8t.

COMMENT***Effective Date and Implementation***

The bill requires facilities to meet the first phase of the new staffing standards by October 1, 2002, but the bill itself does not take effect until October 1, 2002.

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Substitute Change of Reference

Yea 12 Nay 0

Public Health Committee

Joint Favorable Substitute

Yea 22 Nay 0