



General Assembly

Substitute Bill No. 388

February Session, 2008

* _____SB00388PH_APP031708_____*

**AN ACT CONCERNING DIRECT CARE PROVIDER STAFFING LEVELS
IN NURSING HOMES.**

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

1 Section 1. (NEW) (*Effective July 1, 2008*) (a) As used in this section,
2 (1) "direct care" means hands-on care provided to residents of nursing
3 home facilities, including, but not limited to, feeding, bathing,
4 toileting, dressing, lifting and moving such residents, but does not
5 include food preparation, housekeeping or laundry services, except
6 when such services are required to meet the needs of any such resident
7 on an individual situational basis. Direct care does not include care
8 provided by paid feeding assistants, as defined in 42 CFR 488.301; (2)
9 "nursing home facility" means a chronic and convalescent nursing
10 home or rest home with nursing supervision; (3) "commissioner"
11 means the Commissioner of Public Health; and (4) "department"
12 means the Department of Public Health.

13 (b) On and after January 1, 2009, each nursing home facility shall
14 have sufficient direct care staff to provide over a twenty-four-hour
15 period not less than four hours of direct care per resident.

16 (c) Any nursing home facility that fails to comply with the direct
17 care provider staffing level required under subsection (b) of this
18 section on any day shall submit a report to the department, identifying
19 the day on which and the shift during which such noncompliance

20 occurred and specifying the reasons for and circumstances
21 surrounding such noncompliance. The report required by this
22 subdivision shall be submitted on a quarterly basis. If such facility fails
23 to submit any report required by this subdivision or intentionally
24 misrepresents the information contained in any such report, or if the
25 commissioner determines that there is sufficient evidence to support a
26 finding that there exists a pattern of noncompliance by such facility
27 with the direct care provider staffing level required under subsection
28 (b) of this section, the commissioner shall take action against such
29 facility in accordance with sections 19a-524 to 19a-528, inclusive, of the
30 general statutes, as amended by this act. In addition to the action
31 described in this subsection, the commissioner may, in accordance
32 with the provisions of section 19a-494 of the general statutes, take
33 disciplinary action against a nursing home facility if the commissioner
34 determines that such facility has substantially failed to comply with
35 such direct care provider staffing level or the commissioner may take
36 such other action as authorized under the general statutes.

37 (d) The direct care provider staffing level required under subsection
38 (b) of this section is the minimum direct care provider staffing level for
39 a nursing home facility. Each nursing home facility shall employ
40 sufficient direct care providers to provide adequate services to meet
41 patient needs. At the time of an inspection, the department shall
42 calculate the amount of hours provided by direct care providers at
43 such facility to the total number of care hours required for patient
44 needs pursuant to subsection (e) of this section.

45 (e) At the time of any inspection of a nursing home facility, the
46 department shall assess residents' care needs to ensure that sufficient
47 numbers and levels of direct care providers are provided by a facility
48 to meet required resident care needs. Such assessment shall be based
49 on the 1995 and 1997 Staff Time Measurement (STM) Studies,
50 published by the federal Centers for Medicare and Medicaid Services,
51 that determine the nursing minutes needed to care for each resident as
52 ranked in the Resource Utilization Group-III, resident classification
53 system, provided the department shall update the basis of such

54 assessment upon the publication of the 2008 Staff Time and Resource
55 Intensity Verification (STRIVE) Project, or any subsequent version of
56 the federal staff time measurement study or any subsequent
57 reclassification of such resource utilization group. In making such
58 assessment of residents' care needs, the department shall use the data
59 results of the last full resident assessment of such facility as required
60 by the federal Centers for Medicare and Medicaid Services Minimum
61 Data Set. The department shall compare the total number of care hours
62 required by the category scores for such resource utilization group to
63 the amount of care actually provided by direct care providers at such
64 facility. If such total number of care hours actually provided is less
65 than such number of care hours required by the Resource Utilization
66 Group-III, the department shall review the methodology used by such
67 facility to determine the number, experience and qualifications of
68 nursing personnel necessary to meet residents' care needs and shall
69 report such information to the Department of Social Services.

70 (f) The commissioner shall adopt regulations, in accordance with
71 chapter 54 of the general statutes, to carry out the provisions of this
72 section.

73 Sec. 2. Section 19a-524 of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective July 1, 2008*):

75 If, upon review, investigation or inspection pursuant to section 19a-
76 498, the Commissioner of Public Health determines that a nursing
77 home facility has violated any provision of section 17b-406, 19a-521 to
78 19a-529, inclusive, 19a-531 to 19a-551, inclusive, or 19a-553 to 19a-555,
79 inclusive, section 19a-491a, 19a-491b, 19a-493a or 19a-528a or section 1
80 of this act or any regulation in the Public Health Code or regulation
81 relating to licensure or the Fire Safety Code relating to the operation or
82 maintenance of a nursing home facility, which violation has been
83 classified in accordance with section 19a-527, he shall immediately
84 issue or cause to be issued a citation to the licensee of such nursing
85 home facility. Governmental immunity shall not be a defense to any
86 citation issued or civil penalty imposed pursuant to sections 19a-524 to

