
OLR Bill Analysis

sSB 375 (File 758, as amended by Senate "A")*

AN ACT CONCERNING NURSING HOME STAFFING LEVELS.

SUMMARY

This bill requires nursing homes to calculate and post daily, at the beginning of each shift, information related to the number of advanced practice registered nurses (APRNs), registered nurses (RNs), licensed practical nurses (LPNs), and nurse's aides responsible for providing direct care to residents during the shift. Nursing homes must make the information available for public review, upon request, and retain the information for at least 18 months after posting it.

The bill also authorizes the Department of Public Health (DPH) commissioner to take disciplinary action or issue a citation against a nursing home if it substantially failed to comply with current DPH nursing home minimum direct care staffing requirements (currently, 1.9 hours of direct nursing staff per resident per day, see BACKGROUND). Nursing homes must prominently post on-site the staffing violation.

Additionally, the bill requires a nursing home or residential care home (RCH) that discriminates or retaliates against a resident, resident's legal representative, or employee for filing a complaint or testifying in an administrative proceeding against a home to (1) reinstate a terminated employee or (2) restore a resident's prior housing arrangement or other living condition, as appropriate.

Lastly, the bill makes technical changes.

*Senate Amendment "A" (1) defines the term "direct patient care" and modifies the definition of "transportation duty;" (2) excludes, from a nursing home's direct care staffing calculation, certain staff who are not providing direct patient care for at least six hours of an eight

hour shift; and (3) makes technical changes.

EFFECTIVE DATE: October 1, 2019

NURSING HOME POSTING REQUIREMENTS

Calculating Direct Care Staff Hours

The bill requires nursing homes to calculate daily how many nurses and nurse's aides provide direct patient care to residents. Homes must exclude from this calculation nurses or nurse's aides who are (1) managers or administrators or (2) on transportation duty and not providing direct patient care for the primary portion of their shift (i.e., six or more hours of an eight hour shift).

The bill defines "direct care" as patient care provided personally by a nursing home facility staff member, including treatment, counseling, self-care, and medication administration.

Under the bill, "transportation duty" means responsibility for accompanying the resident while he or she is transported to or from the nursing home.

Posting Direct Care Staff Hours

Under the bill, nursing homes must post the following information in accordance with federal nursing home regulations:

1. nursing home name, the date, and total number of residents;
2. total number of APRNs, RNs, LPNs, and nurse's aides responsible for direct patient care during the shift; and
3. total number of hours each of these nursing staff are scheduled to work during the shift.

The information must be posted daily, at the beginning of each shift, in a legible format and in a conspicuous place readily accessible to, and clearly visible by residents, employees, and visitors, including those in a wheelchair.

Additionally, the bill requires nursing homes to post the following

in this manner:

1. the minimum number of direct care nursing staff per shift required by DPH regulations and
2. the telephone number or Internet website that a resident, employee, or visitor may use to report a suspected violation of these staffing requirements.

Nursing homes must make the information available for public review, upon request, and retain the information for at least 18 months after it is posted.

VIOLATIONS

Under the bill, if the DPH commissioner finds that a nursing home has substantially failed to comply with nursing home minimum direct care staffing requirements, she may take disciplinary action against the home and issue, or cause to be issued, a citation.

By law, DPH may take various disciplinary actions against a nursing home, including such things as suspending or revoking its license, issuing a letter of reprimand or compliance order, imposing a corrective action plan, or placing it on probationary status.

The bill requires nursing homes to prominently post on-site a minimum direct care staffing citation. (It does not specify how long the home must post the information.) DPH must also include the citation on its monthly list of certain nursing home citations issued, civil penalties filed or paid, and violations corrected during the previous month.

WHISTLEBLOWER PROTECTIONS

Existing law prohibits nursing homes and RCHs from discriminating or retaliating against a resident; resident's relative, guardian, or conservator; or employee for filing a complaint or causing or testifying in an administrative proceeding against a home.

By law, a nursing home or RCH that violates the ban is liable to the

injured party for treble damages. The bill also requires the nursing home or RCH to (1) reinstate the employee, if he or she was terminated due to discrimination or retaliation, or (2) restore the resident to his or her prior housing arrangement or other living conditions, if they were changed due to discrimination or retaliation.

The bill provides that discrimination and retaliation include discharging, demoting, suspending, or any other detrimental change in the terms or conditions of a person's employment or residency, or any threat of these actions.

BACKGROUND

Current Minimum Nurse Staffing Standards for Nursing Homes

DPH licenses nursing homes at two levels of care: (1) chronic and convalescent nursing homes (CCNHs), which provide skilled nursing care, and (2) rest homes with nursing supervision (RHNS), which provide intermediate care. (Nursing homes generally have been phasing out RHNS beds or converting them to CCNH beds.)

Minimum staffing requirements for CCNHs and RHNS are set by regulation and depend on the time of day, as shown in the table below (Conn. Agencies Reg., § 19-13-D8t).

Table 1: Minimum Nurse Staffing Requirements for Nursing Homes

<i>Direct Care Personnel</i>	<i>CCNH</i>		<i>RHNS</i>	
	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	0.47 hours per patient (hpp) (28 min.)	0.17 hpp (10 min.)	0.23 hpp (14 min.)	0.08 hpp (5 min.)
Total Nurses and Nurse Aide Personnel	1.40 hpp (1 hr. 24 min.)	0.50 hpp (30 min.)	0.70 hpp (42 min.)	0.17 hpp (10 min.)

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 14 Nay 11 (03/29/2019)