



Senate

General Assembly

File No. 758

January Session, 2019

Substitute Senate Bill No. 375

Senate, April 18, 2019

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th 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. (NEW) (*Effective October 1, 2019*) As used in this section
2 and sections 2 and 3 of this act:

3 (1) "Nurse" means an advanced practice registered nurse, registered
4 nurse or licensed practical nurse licensed pursuant to chapter 378 of
5 the general statutes;

6 (2) "Advanced practice registered nurse" means an advanced
7 practice registered nurse licensed pursuant to chapter 378 of the
8 general statutes;

9 (3) "Registered nurse" means a registered nurse licensed pursuant to
10 chapter 378 of the general statutes;

11 (4) "Licensed practical nurse" means a practical nurse licensed
12 pursuant to chapter 378 of the general statutes;

13 (5) "Nurse's aide" means a nurse's aide registered pursuant to
14 chapter 378a of the general statutes;

15 (6) "Nursing home facility" has the same meaning as provided in
16 section 19a-521 of the general statutes; and

17 (7) "Transportation duty" means the responsibility of a nurse or
18 nurse's aide to (A) ensure that a resident safely enters or exits from a
19 vehicle that is transporting the resident to or from the nursing home
20 facility, or (B) accompany the resident while he or she is being
21 transported to or from the nursing home facility.

22 Sec. 2. (NEW) (*Effective October 1, 2019*) (a) Each nursing home
23 facility shall calculate on a daily basis, for the purposes of posting the
24 information required under subsection (b) of this section, the total
25 number of nurses and nurse's aides providing direct patient care to
26 residents of the nursing home facility. In calculating the total number,
27 a nursing home facility shall not include any nurse or nurse's aide who
28 is on transportation duty for any part of the workday or any nurse or
29 nurse's aide who is categorized as a member of the nursing home
30 facility's management or administration.

31 (b) Each nursing home facility shall post, in accordance with 42 CFR
32 483.35(g), the following information on a daily basis at the beginning
33 of each shift, in a legible format and in a conspicuous place readily
34 accessible to and clearly visible by residents, employees and visitors of
35 the nursing home facility, including, but not limited to, persons in a
36 wheelchair:

37 (1) Name of the nursing home facility;

38 (2) Date;

39 (3) Total number of (A) advanced practice registered nurses, (B)
40 registered nurses, (C) licensed practical nurses, and (D) nurse's aides,
41 who will be responsible for direct patient care during the shift;

42 (4) Total number of hours such (A) advanced practice registered

43 nurses, (B) registered nurses, (C) licensed practical nurses, and (D)
44 nurse's aides are scheduled to work during the shift; and

45 (5) Total number of nursing home facility residents.

46 (c) In addition to the information posted pursuant to subsection (b)
47 of this section, each nursing home facility shall post the following
48 information on a daily basis, at the beginning of each shift, in a legible
49 format and in a conspicuous place readily accessible to and visible by
50 residents, employees and visitors of the nursing home facility,
51 including, but not limited to, persons in a wheelchair:

52 (1) The minimum number of nursing home facility staff per shift
53 that is required by the regulations of Connecticut state agencies to be
54 responsible for providing direct patient care to residents of the nursing
55 home facility; and

56 (2) The telephone number or Internet web site that a resident,
57 employee or visitor of the nursing home facility may use to report a
58 suspected violation by the nursing home facility of a regulatory
59 requirement concerning staffing levels and direct patient care.

60 (d) Each nursing home facility shall, upon oral or written request,
61 make the daily information posted pursuant to subsections (b) and (c)
62 of this section available to the public for review. The nursing home
63 facility shall retain such information for not less than eighteen months
64 from the date such information was posted.

65 Sec. 3. (NEW) (*Effective October 1, 2019*) (a) If the Commissioner of
66 Public Health finds that a nursing home facility has substantially failed
67 to comply with a nursing home facility staffing level requirement
68 established pursuant to the regulations of Connecticut state agencies,
69 the commissioner may (1) take any disciplinary action against the
70 nursing home facility permitted under section 19a-494 of the general
71 statutes, and (2) issue or cause to be issued a citation to the licensee of
72 such nursing home facility pursuant to the provisions of section 19a-
73 524 of the general statutes.

74 (b) A violation of a nursing home facility staffing level requirement
75 set forth in the regulations of Connecticut state agencies shall be
76 prominently posted in the nursing home facility and included in the
77 listing prepared by the Department of Public Health pursuant to the
78 provisions of section 19a-540 of the general statutes.

79 Sec. 4. Section 19a-532 of the general statutes is repealed and the
80 following is substituted in lieu thereof (*Effective October 1, 2019*):

81 No nursing home facility or residential care home shall discharge or
82 in any manner discriminate or retaliate against any [patient in]
83 resident of any nursing home facility or residential care home, or any
84 relative, guardian, conservator or sponsoring agency thereof or against
85 any employee of any nursing home facility or residential care home or
86 against any other person because such [patient] resident, relative,
87 guardian, conservator, sponsoring agency, employee or other person
88 has filed any complaint or instituted or caused to be instituted any
89 proceeding under sections 17a-411, 17a-413, 19a-531 to 19a-534,
90 inclusive, 19a-536 to 19a-539, inclusive, 19a-550, 19a-553, [and] 19a-554
91 or section 2 of this act, or has testified or is about to testify in any such
92 proceeding or because of the exercise by such [patient] resident,
93 relative, guardian, conservator, sponsoring agency, employee or other
94 person on behalf of himself, herself or others of any right afforded by
95 said sections. Notwithstanding any other provision of the general
96 statutes, any nursing home facility or residential care home that
97 violates any provision of this section shall (1) be liable to the injured
98 party for treble damages, and (2) (A) reinstate the employee, if the
99 employee was terminated from employment in violation of any
100 provision of this section, or (B) restore the resident to his or her living
101 situation prior to such discrimination or retaliation, including his or
102 her housing arrangement or other living conditions within the nursing
103 home facility or residential care home, as appropriate, if the resident's
104 living situation was changed in violation of any provision of this
105 section. For purposes of this section, "discriminate or retaliate"
106 includes, but is not limited to, the discharge, demotion, suspension or
107 any other detrimental change in terms or conditions of employment or

108 residency, or the threat of any such action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>October 1, 2019</i>	New section
Sec. 3	<i>October 1, 2019</i>	New section
Sec. 4	<i>October 1, 2019</i>	19a-532

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which makes changes to requirements of nursing homes, is not anticipated to result in a fiscal impact to the State or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 375*****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 it is posted.

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 an employee who was terminated or (2) restore a resident's prior housing arrangement or other living condition, as appropriate.

Lastly, the bill 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 for any part of the workday.

Under the bill, "transportation duty" means responsibility for (1) ensuring that a resident safely enters or exits a vehicle that is transporting him or her to or from the nursing home or (2) 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 in this manner the:

1. minimum number of direct care nursing staff per shift required by DPH regulations and
2. telephone number or Internet website that a resident, employee,

or visitor may use to report a suspected violation of these staffing requirements.

VIOLATIONS

Under the bill, if the DPH commissioner finds 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 violation. DPH must also include the violation on its monthly list of certain nursing home violations 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.)

Related Bill

HB 7099 (File 30), favorably reported by the Aging Committee, requires CCNHs to maintain minimum nursing staff ratios of at least three hours of daily direct care per resident.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 14 Nay 11 (03/29/2019)