



Senate

General Assembly

File No. 570

January Session, 2019

Substitute Senate Bill No. 1079

Senate, April 9, 2019

The Committee on Human Services reported through SEN. MOORE, M. of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NURSING HOME FACILITY MINIMUM STAFFING LEVELS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section:

3 (1) "Registered nurse's aide" means a nurse's aide registered in
4 accordance with chapter 378a of the general statutes;

5 (2) "Daily minimum staffing ratio" means (A) two and three-tenths
6 hours of direct care per nursing home facility resident provided by
7 registered nurse's aides over a twenty-four-hour period, and (B) seven-
8 tenths of one hour of medical care per nursing home facility resident
9 provided by licensed nursing personnel over a twenty-four-hour
10 period;

11 (3) "Department" means the Department of Public Health;

12 (4) "Direct care" means hands-on care provided to a nursing home
13 facility resident by a registered nurse's aide, including, but not limited

14 to, providing assistance with feeding, bathing, toileting, dressing,
15 lifting or moving residents, but not physical or occupational therapy,
16 medication administration, food preparation, housekeeping or laundry
17 services;

18 (5) "Licensed nursing personnel" means nurses licensed in
19 accordance with chapter 378 of the general statutes; and

20 (6) "Nursing home facility" means a chronic or convalescent nursing
21 home.

22 (b) On and after October 1, 2019, the Commissioner of Public Health
23 shall require each nursing home facility to maintain a daily minimum
24 staffing ratio as defined in subsection (a) of this section. The daily
25 minimum staffing ratio shall not include break, vacation, sick,
26 personal, training, educational or other time that is not spent on direct
27 care or medical care provided to a nursing home facility resident.

28 (c) The Commissioner of Public Health shall require each nursing
29 home facility to maintain a daily record of (1) the number of residents
30 at such facility, (2) the number of registered nurse's aides scheduled
31 and available to provide direct care, (3) the number of licensed nursing
32 personnel scheduled and available to provide medical care, and (4)
33 whether a sufficient number of registered nurse's aides and licensed
34 nursing personnel are scheduled and available to comply with the
35 requirements of this section. Each nursing home facility shall file
36 quarterly reports not later than fifteen days after the start of the
37 quarters commencing in January, April, July and October of each year
38 with the department on the number and percentage of days in the
39 preceding quarter that such facility has failed to comply with the
40 provisions of this section and the reasons therefore.

41 (d) The Commissioner of Public Health shall require each nursing
42 home facility to post the daily record required pursuant to subsection
43 (c) of this section in a conspicuous place in the nursing home facility
44 along with (1) a copy of this section, and (2) information about how to
45 report a violation of the provisions of this section to the department

46 and the Office of the Long-Term Care Ombudsman.

47 (e) The Commissioner of Public Health may randomly audit a
48 nursing home facility for compliance with the provisions of this section
49 and take any disciplinary action against the facility permitted under
50 section 19a-494 of the general statutes for failure to comply with the
51 provisions of this section.

52 (f) Notwithstanding the provisions of section 17b-340 of the general
53 statutes, the Commissioner of Social Services, within available
54 appropriations, shall adjust the Medicaid rate for any nursing home
55 facility that provides evidence satisfactory to the commissioner that such
56 facility has incurred increased costs to comply with the provisions of
57 this section. The rate adjustment shall cover any such costs incurred on
58 or after October 1, 2019.

59 (g) The Commissioner of Public Health, in accordance with the
60 provisions of chapter 54 of the general statutes, shall adopt or amend
61 regulations to implement the provisions of this section, including, but
62 not limited to, apportioning the daily minimum staffing ratio from
63 seven o'clock a.m. to nine o'clock p.m. and nine o'clock p.m. to seven
64 o'clock a.m. The commissioner may adopt policies and procedures to
65 implement the provisions of this section in advance of the regulations
66 provided such policies and procedures are posted on the department's
67 Internet web site and the e-Regulations System at least thirty days
68 prior to adoption.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In Subsec. (b), "pursuant to" was changed to "as defined in" for accuracy.

HS *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:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Social Services, Dept.	GF - Cost	24 million	24 million

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill will result in a state cost of approximately \$24 million associated with increasing the minimum per nursing home resident staffing ratio for nurse’s aides. The bill specifies that 2.3 hours of direct care be provided by a nurse’s aide and 0.7 hours of medical care be provided by a nurse, in a 24 hour period. Based on nursing home staffing data, there are 169 homes (approximately 76%) below the 2.3 hour ratio for certified nursing assistants and one home below the ratio for licensed nursing staff. The cost for nursing homes to staff at the proposed levels will depend on the actual number and level of staff required and their associated wages. The bill requires the Department of Social Services to adjust the Medicaid rate to cover the costs incurred by any nursing home that satisfactorily complies with the provisions of the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the staff required to meet the provisions of the bill and associated Medicaid expenditures.

OLR Bill Analysis**sSB 1079****AN ACT CONCERNING NURSING HOME FACILITY MINIMUM STAFFING LEVELS.****SUMMARY**

This bill requires chronic or convalescent nursing homes (CCNH), beginning October 1, 2019, to maintain a daily minimum per-resident per-day staffing ratio of (1) 2.3 hours of direct care provided by registered nurse's aides and (2) 0.7 hours of medical care provided by licensed nursing personnel.

Current Department of Public Health (DPH) regulations require CCNHs to maintain aggregated licensed nurse and nurse's aide staffing levels of at least 1.9 hours of direct care per resident per day (see BACKGROUND).

Under the bill, DPH must require CCNHs to (1) maintain the bill's minimum staffing ratio, (2) maintain and post daily records on staff schedules and availability, and (3) file quarterly compliance reports with DPH. The department must adopt or amend regulations to implement the staffing ratio and related requirements.

The bill allows DPH to randomly audit a nursing home for compliance with the bill's requirements and take disciplinary action against the facility for failure to comply (see BACKGROUND).

The bill also requires the Department of Social Services (DSS) to adjust the Medicaid rate for nursing homes that provide satisfactory evidence to the DSS commissioner that the facility incurred increased costs to comply with the staffing ratio and related requirements under the bill. The rate adjustment must (1) be within available appropriations and (2) cover costs incurred beginning October 1, 2019.

EFFECTIVE DATE: Upon passage

DAILY MINIMUM STAFFING RATIO

The bill establishes a daily minimum staffing ratio for CCNHs of (1) 2.3 hours of direct care provided by registered nurse's aides and (2) 0.7 hours of medical care provided by licensed nursing personnel. The daily minimum staffing ratio does not include break, vacation, sick, personal, training, education, or other time that is not spent on direct care or medical care provided to a nursing home facility resident.

Under the bill, direct care is hands-on care provided to a nursing home facility resident by a registered nurse's aide, including providing assistance with feeding, bathing, toileting, dressing, lifting, or moving residents. Direct care does not include physical or occupational therapy, medication administration, food preparation, housekeeping, or laundry services.

DAILY RECORDS AND REPORTING

Under the bill, DPH must require each CCNH to maintain a daily record of:

1. the number of facility residents,
2. the number of registered nurse's aides scheduled and available to provide direct care,
3. the number of licensed nursing personnel scheduled and available to provide medical care, and
4. whether a sufficient number of registered nurse's aides and licensed nursing personnel are scheduled and available to comply with the bill's requirements.

The bill also requires CCNHs to file quarterly reports with DPH on the number and percentage of days in the preceding quarter that the facility has failed to comply with the bill's requirements and reasons for this failure. Quarterly reports are due by the 15th of January, April,

July, and October of each year.

The bill additionally requires DPH to require CCNHs to post their daily records in a conspicuous place in the facility along with a copy of this bill and information about how to report violations to DPH and the Office of the Long-Term Care Ombudsman.

REGULATIONS

The bill requires DPH to adopt or amend regulations to implement the bill, including apportioning daily minimum staffing ratios (from 7:00 a.m. to 9:00 p.m. and 9:00 p.m. to 7:00 a.m.). Under current regulation, minimum daily staffing ratios are apportioned in this way (see BACKGROUND). The bill allows the public health commissioner to adopt policies and procedures to implement the bill's requirements before adopting or amending regulations as long as the policies and procedures are posted on the DPH website and the e-Regulations system at least 30 days before adoption.

BACKGROUND

Related Bill

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

Current Minimum Nurse Staffing Standards for Nursing Homes

DPH licenses nursing homes at two levels of care: (1) CCNHs, which provide skilled nursing care, and (2) rest homes with nursing supervision (RHNS), which provide intermediate care.

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.)

Disciplinary Action

By law, if the DPH commissioner finds that a health care facility has failed to comply with laws related to health care institutions, he may do any of the following after a fair hearing:

1. revoke or suspend a license or certificate;
2. censure or issue a letter of reprimand to a licensee or certificate holder;
3. place a licensee or certificate holder on probationary status and require regular reports;
4. issue a letter compelling compliance with laws or DPH regulations; or
5. impose a directed plan of correction (CGS § 19a-494).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/26/2019)