



# Senate

General Assembly

**File No. 81**

January Session, 2023

Substitute Senate Bill No. 1026

*Senate, March 15, 2023*

The Committee on Aging reported through SEN. HOCHADEL 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 RATIOS.**

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

1 Section 1. Section 19a-563h of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2024*):

3 (a) [On or before January 1, 2022] On and after July 1, 2024, the  
4 Department of Public Health shall (1) establish minimum staffing level  
5 requirements for nursing homes of [three hours of direct care per  
6 resident per day, and (2) modify staffing level requirements for social  
7 work and recreational staff of nursing homes such that the requirements  
8 (A) for social work, a number of hours that is based on one full-time  
9 social worker per sixty residents and that shall vary proportionally  
10 based on the number of residents in the nursing home, and (B) for  
11 recreational staff are lower than the current requirements, as deemed  
12 appropriate by the Commissioner of Public Health.] at least three and  
13 six-tenths hours of direct care per resident per day, including sixty-six-  
14 hundredths of an hour of care by a registered nurse, forty-nine-  
15 hundredths of an hour of care by a licensed practical nurse and two and

16 forty-five-hundredths hours of care by a certified nurse's assistant, and  
17 (2) modify staffing level requirements for social work and recreational  
18 staff of nursing homes such that the requirements (A) for social work  
19 are one full-time social worker per sixty residents, and (B) for  
20 recreational staff are higher than the requirements prior to January 1,  
21 2022, as deemed appropriate by the Commissioner of Public Health.  
22 Such minimum staffing level requirements shall remain in effect until  
23 the department establishes minimum staffing level requirements  
24 pursuant to subsection (b) of this section.

25 (b) On or before January 1, 2026, the Department of Public Health  
26 shall (1) establish minimum staffing level requirements for nursing  
27 home facilities of at least four and one-tenth hours of direct care per  
28 resident per day, including three-quarters of an hour of care by a  
29 registered nurse, fifty-four-hundredths of an hour of care by a licensed  
30 practical nurse and two and eighty-one-hundredths hours of care by a  
31 certified nurse's assistant, and (2) modify staffing level requirements for  
32 social work and recreational staff of nursing homes such that the  
33 requirements (A) for social work are one full-time social worker per  
34 sixty residents, and (B) for recreational staff are higher than the  
35 requirements prior to January 1, 2022, as deemed appropriate by the  
36 Commissioner of Public Health.

37 [(b)] (c) The commissioner shall adopt regulations in accordance with  
38 the provisions of chapter 54 [that set forth nursing home staffing level  
39 requirements] to implement the provisions of this section. [The  
40 Commissioner of Public Health may implement policies and procedures  
41 necessary to administer the provisions of this section while in the  
42 process of adopting such policies and procedures as regulations,  
43 provided notice of intent to adopt regulations is published on the  
44 eRegulations System not later than twenty days after the date of  
45 implementation. Policies and procedures implemented pursuant to this  
46 section shall be valid until the time final regulations are adopted.]

47 Sec. 2. Section 19a-562h of the general statutes is repealed and the  
48 following is substituted in lieu thereof (*Effective October 1, 2023*):

49 (a) [If] On and after July 1, 2024, if the Commissioner of Public Health  
50 finds that a nursing home facility has substantially failed to comply with  
51 a nursing home facility staffing level requirement established pursuant  
52 to [the regulations of Connecticut state agencies,] section 19a-563h, as  
53 amended by this act, such violation shall be considered a class B  
54 violation pursuant to section 19a-527, and the commissioner may (1)  
55 take any disciplinary action against the nursing home facility permitted  
56 under section 19a-494, and (2) issue or cause to be issued a citation to  
57 the licensee of such nursing home facility pursuant to the provisions of  
58 section 19a-524, as amended by this act.

59 (b) A citation of a nursing home facility staffing level requirement set  
60 forth in the regulations of Connecticut state agencies shall be  
61 prominently posted in the nursing home facility and included in the  
62 listing prepared by the Department of Public Health pursuant to the  
63 provisions of section 19a-540.

64 (c) The Commissioner of Public Health shall adopt regulations, in  
65 accordance with chapter 54, to implement the provisions of this section.

66 Sec. 3. Section 19a-524 of the general statutes is repealed and the  
67 following is substituted in lieu thereof (*Effective October 1, 2023*):

68 If, upon review, investigation or inspection pursuant to section 19a-  
69 498, the Commissioner of Public Health determines that a nursing home  
70 facility or residential care home has violated any provision of section  
71 17a-876, 19a-491a to 19a-491c, inclusive, 19a-493a, 19a-521 to 19a-529,  
72 inclusive, 19a-531 to 19a-551, inclusive, [or] 19a-553 to 19a-555,  
73 inclusive, or, on and after July 1, 2024, 19a-563h, as amended by this act,  
74 or any provision of any regulation of Connecticut state agencies relating  
75 to licensure, the Fire Safety Code or the operation or maintenance of a  
76 nursing home facility or residential care home, which violation has been  
77 classified in accordance with section 19a-527, the commissioner may  
78 immediately issue or cause to be issued a citation to the licensee of such  
79 nursing home facility or residential care home. Governmental immunity  
80 shall not be a defense to any citation issued or civil penalty imposed  
81 pursuant to this section or sections 19-525 to 19a-528, inclusive. Each

82 such citation shall be in writing, provide notice of the nature and scope  
 83 of the alleged violation or violations, and include, but not be limited to,  
 84 the citation and notice of noncompliance issued in accordance with  
 85 section 19a-496. Each citation and notice of noncompliance issued under  
 86 this section shall be sent to the licensee electronically in a form and  
 87 manner prescribed by the commissioner or by certified mail at the  
 88 address of the nursing home facility or residential care home in issue. A  
 89 copy of such citation and notice of noncompliance shall also be sent to  
 90 the licensed administrator at the address of the nursing home facility or  
 91 residential care home.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024</i>	19a-563h
Sec. 2	<i>October 1, 2023</i>	19a-562h
Sec. 3	<i>October 1, 2023</i>	19a-524

**Statement of Legislative Commissioners:**

In Section 1, the effective date was changed to July 1, 2024, "On or before" was changed to "On and after", new language was added to the section and existing staffing ratios deleted, and "hundredth hours" was changed to "hundredths of an hour" for accuracy and statutory consistency; in Section 2, "section 1 of this act" was changed to "section 19a-563h, as amended by this act" for accuracy; and in Section 3, "19a-562-h" was changed to "19a-563h" for accuracy.

**AGE**      *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 24 \$	FY 25 \$
Social Services, Dept.	GF - Cost	None	up to \$26.8 million
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

**Section 1** results in a cost to DSS of up to \$26.8 million in FY 25, \$42.3 million in FY 26, and \$57.7 million in FY 27 due to increasing minimum staffing level requirements for nursing homes to at least 4.1 hours of direct care, by January 1, 2026.

The FY 25 cost is associated with increasing the total number of direct care hours provided per resident per day to at least 3.6 hours, on and after July 1, 2024. This includes 0.66 hours by a registered nurse (RN), 0.49 hours by a licensed practical nurse (LPN), and 2.45 hours by a certified nurse's assistant (CNA). Based on 2021 nursing home staffing data, this results in a gross cost of approximately \$53.7 million, driven predominantly by the increase in CNA hours required.<sup>1</sup> If these increased costs are reflected in nursing home Medicaid rates, the state could experience a cost of up to \$26.8 million in FY 25. Costs increase by

<sup>1</sup> This assumes nursing homes will have met the staffing ratios required under the Department of Public Health (DPH) regulations, including 2.16 hours of direct care per resident per day provided by a CNA, effective 3/1/23.

an additional \$15.5 million in FY 26 after the minimum staffing requirement is increased to at least 4.1 hours of direct care by January 1, 2026. This includes 0.75 hours by an RN, 0.54 hours by an LPN, and 2.81 hours by a CNA. Costs increase again by an additional \$15.4 million in FY 27 when staffing costs are fully annualized.

The actual cost to staff at the proposed levels will depend on the number and level of staff required and how such costs are incorporated into Medicaid payments to nursing homes.

**Sections 2 and 3** make a nursing facility's failure to comply with staffing level requirements under the bill a Class B violation, which may result in a revenue gain to the resources of the General Fund, should the Department of Public Health choose to levy civil penalties on noncompliant facilities of up to \$10,000 for each violation.

### ***The Out Years***

As described above, the bill increases state Medicaid costs by up to \$42.3 million in FY 26 and \$57.7 million in FY 27 when staffing costs are fully annualized. The out-year impact of the potential revenue gain is dependent on the rate of non-compliance and associated civil penalties levied.

**OLR Bill Analysis****sSB 1026*****AN ACT CONCERNING NURSING HOME STAFFING RATIOS.*****SUMMARY**

This bill requires the Department of Public Health (DPH) to modify minimum nursing home staffing requirements as follows:

1. increase minimum nurse staffing requirements (i.e., for registered and licensed practical nurses and nurse's assistants) incrementally from July 1, 2024, to January 1, 2026;
2. increase recreational staffing levels higher than the requirements prior to January 1, 2022, as the DPH commissioner deems appropriate; and
3. eliminate the requirement that the minimum staffing level for social workers vary proportionally based on the number of residents in the home.

Under the bill, the staffing requirements that take effect by July 1, 2024, remain in effect until DPH increases them to the levels set to take effect by January 1, 2026.

Additionally, the bill allows the DPH commissioner, starting July 1, 2024, to immediately issue a citation if a review, inspection, or investigation reveals that a nursing home has violated the bill's staffing requirements.

Under the bill, a violation is a Class B violation (see BACKGROUND) that subjects the home to various DPH disciplinary actions (e.g., license revocation or suspension, probation, or a corrective action plan) and a civil penalty of up to \$10,000.

Lastly, the bill (1) requires DPH to adopt regulations to implement the bill’s staffing requirements and related provisions on citations and (2) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2024, except that the provisions on citations, Class B violations, and related DPH regulations take effect October 1, 2023.

**NURSING HOME MINIMUM STAFFING REQUIREMENTS**

***Nursing Staff***

Current law requires nursing homes to provide at least 3.0 hours of direct nursing care per resident per day (prpd). The bill (1) incrementally increases staffing requirements from July 1, 2024, to January 1, 2026, and (2) specifies the nursing personnel that must provide the care, as shown in the table below.

**Table: Minimum Nurse Staffing Requirements Under the Bill**

<i>Direct Care Personnel</i>	<i>By July 1, 2024</i>	<i>By January 1, 2026</i>
Registered nurses	0.66 hours prpd	0.75 hours prpd
Licensed practical nurses	0.49 hours prpd	0.54 hours prpd
Certified nurse’s assistants	2.45 hours prpd	2.81 hours prpd
Total nurses and nurse assistant personnel	3.6 hours prpd	4.1 hours prpd

***Social Worker Staff***

The bill maintains current law’s minimum staffing level requirement for social workers in nursing homes of one full-time social worker per 60 residents. But it eliminates the requirement that the number of hours based on this ratio vary proportionally based on the number of residents in the home (e.g., a home with 90 residents would require 1.5 full-time social workers instead of two).

***Regulations***

The bill requires the DPH commissioner to adopt regulations to implement the bill’s nursing home staffing requirements. It eliminates the provision under current law that allows the commissioner to implement policies and procedures while in the process of adopting



them as regulations.

**BACKGROUND**

***Nursing Home Violations***

By law, the DPH commissioner may immediately issue a citation if a review or an inspection or investigation reveals that a nursing home has violated a statute or regulation related to its licensure, operation, and maintenance (CGS § 19a-524).

The law establishes two types of citations, which are based on the nature of the violation. Class A violations present an immediate danger of death or serious harm to a nursing home resident and carry a civil penalty of up to \$20,000. Class B violations present a potential for death or serious harm in the reasonably foreseeable future and carry a civil penalty of up to \$10,000. DPH must include a notice of noncompliance with the citation (CGS §§ 19a-524 & -527).

**COMMITTEE ACTION**

Aging Committee

Joint Favorable Substitute

Yea 12 Nay 3 (02/28/2023)