

SENATE BILL 794

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2000 Regular Session
0lr1245
CF 0lr1244

By: **Senators Hollinger, Collins, and Teitelbaum (Task Force on Quality of Care in Nursing Homes)**

Introduced and read first time: February 11, 2000

Assigned to: Rules

Re-referred to: Finance, February 18, 2000

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2000

CHAPTER 212

1 AN ACT concerning

2 **Nursing Homes - Required Staffing**

3 ~~FOR the purpose of requiring nursing homes to meet certain staffing requirements to~~
4 ~~qualify for licensure; requiring nursing homes to employ certain individuals for~~
5 ~~certain positions; specifying certain duties that certain individuals may not~~
6 ~~perform; specifying certain staffing levels for nursing homes; requiring nursing~~
7 ~~homes to post certain information in certain areas of the home on a certain form~~
8 ~~developed by the Department of Health and Mental Hygiene; providing for~~
9 ~~certification of staffing levels; authorizing the Department to improve working~~
10 ~~conditions and salary levels; providing for certain penalties; authorizing the~~
11 ~~Department to adopt certain regulations; and generally relating to staffing~~
12 ~~requirements for nursing homes.~~

13 FOR the purpose of stating the intent of the General Assembly that the Governor
14 provide in the State budget for certain fiscal years additional funds for nursing
15 home services; specifying how nursing homes are allowed to use the additional
16 funds; providing that nursing home expenditures are subject to audit and cost
17 settlement by the Department of Health and Mental Hygiene; requiring the
18 Department to reconvene the Medicaid Nursing Home Reimbursement Study
19 Group; specifying the duties of the Medicaid Nursing Home Reimbursement
20 Study Group; requiring a certain report by a certain date; and generally relating
21 to nursing home services.

22 ~~BY adding to~~
23 ~~Article Health General~~
24 ~~Section 19-1410 through 19-1412~~

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1999 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article—Health—General**

6 ~~19-1410.~~

7 (A) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
8 ~~INDICATED.~~

9 (1) ~~"LICENSED PERSONNEL" MEANS:~~

10 (I) ~~A REGISTERED NURSE WHO IS LICENSED TO PRACTICE IN THE~~
11 ~~STATE; OR~~

12 (II) ~~A PRACTICAL NURSE WHO IS LICENSED TO PRACTICE IN THE~~
13 ~~STATE.~~

14 (2) ~~"UNLICENSED PERSONNEL" MEANS A CERTIFIED NURSE ASSISTANT,~~
15 ~~NURSE AIDE, CERTIFIED MEDICATION AIDE, OR OTHER NURSING HOME EMPLOYEE~~
16 ~~REQUIRED TO PROVIDE DIRECT NURSING CARE TO NURSING HOME RESIDENTS.~~

17 (B) ~~A NURSING HOME SHALL EMPLOY STAFF SUFFICIENT IN NUMBER AND~~
18 ~~QUALIFICATIONS TO MEET THE SCHEDULED AND UNSCHEDULED NURSING CARE~~
19 ~~NEEDS OF THE RESIDENTS.~~

20 (C) ~~TO QUALIFY FOR A LICENSE OR RENEWAL LICENSE:~~

21 (1) ~~A NURSING HOME SHALL PROVIDE SUFFICIENT STAFF TO ENSURE~~
22 ~~AT LEAST A TOTAL OF 4 HOURS OF DIRECT NURSING CARE PER RESIDENT PER DAY;~~

23 (2) ~~OF THE TOTAL DIRECT NURSING CARE HOURS PER PATIENT PER~~
24 ~~DAY, AT LEAST 3 HOURS OF THAT CARE SHALL BE PROVIDED BY UNLICENSED~~
25 ~~PERSONNEL AND AT LEAST 1 HOUR OF THAT CARE SHALL BE PROVIDED BY~~
26 ~~LICENSED PERSONNEL;~~

27 (3) ~~LICENSED PERSONNEL AND UNLICENSED PERSONNEL MAY NOT~~
28 ~~PROVIDE FOOD PREPARATION, HOUSEKEEPING, LAUNDRY, OR MAINTENANCE~~
29 ~~SERVICES; AND~~

30 (4) ~~AN INDIVIDUAL EMPLOYED TO PROVIDE FOOD PREPARATION,~~
31 ~~HOUSEKEEPING, LAUNDRY, OR MAINTENANCE SERVICES MAY NOT PROVIDE~~
32 ~~NURSING CARE TO RESIDENTS.~~

33 (D) (1) ~~A NURSING HOME SHALL DISPLAY ON EACH FLOOR OF THE HOME A~~
34 ~~NOTICE THAT EXPLAINS THE CURRENT RATIO OF LICENSED PERSONNEL TO~~
35 ~~RESIDENTS AND UNLICENSED PERSONNEL TO RESIDENTS.~~

1 (2) ~~THE NOTICE SHALL BE:~~

2 (I) ~~POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO~~
3 ~~RESIDENTS, FAMILY MEMBERS OF THE RESIDENTS, CAREGIVERS, AND POTENTIAL~~
4 ~~CONSUMERS; AND~~

5 (II) ~~ON A FORM PROVIDED BY THE DEPARTMENT.~~

6 ~~(E) (1) THE STAFFING REQUIREMENTS UNDER THIS SECTION ARE~~
7 ~~MINIMUM REQUIREMENTS AND MAY NOT BE CONSTRUED TO LIMIT THE ABILITY OF~~
8 ~~THE NURSING HOME TO EMPLOY ADDITIONAL STAFF.~~

9 (2) ~~FOR A NURSING HOME OR GROUP OF NURSING HOMES, THE~~
10 ~~DEPARTMENT MAY INCREASE THE MINIMUM STAFF RATIO TO ADDRESS RESIDENT~~
11 ~~ACUITY LEVELS.~~

12 (3) ~~THE SECRETARY SHALL ADOPT REGULATIONS FOR THE~~
13 ~~IMPLEMENTATION OF STAFFING REQUIREMENTS ABOVE THE MINIMUM LEVELS~~
14 ~~REQUIRED BY THIS SECTION.~~

15 ~~(F) FOR ANY NURSING HOME WITH A CURRENT MARYLAND LICENSE ON~~
16 ~~OCTOBER 1, 2000, THE NURSING HOME MUST PROVIDE CERTIFICATION TO THE~~
17 ~~DEPARTMENT THAT THE MINIMUM STAFFING REQUIREMENTS WILL BE MET AS OF~~
18 ~~APRIL 1, 2002.~~

19 ~~(G) FOR ANY NURSING HOME APPLYING FOR A NEW MARYLAND LICENSE ON~~
20 ~~OR AFTER OCTOBER 1, 2000, THE NURSING HOME SHALL PROVIDE CERTIFICATION TO~~
21 ~~THE DEPARTMENT THAT THE MINIMUM STAFFING REQUIREMENTS WILL BE MET NO~~
22 ~~LATER THAN JANUARY 1, 2001.~~

23 ~~19-1411.~~

24 ~~(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
25 ~~INDICATED.~~

26 (1) ~~"LICENSED PERSONNEL" MEANS:~~

27 (I) ~~A REGISTERED NURSE WHO IS LICENSED TO PRACTICE IN THE~~
28 ~~STATE; OR~~

29 (II) ~~A PRACTICAL NURSE WHO IS LICENSED TO PRACTICE IN THE~~
30 ~~STATE.~~

31 (2) ~~"UNLICENSED PERSONNEL" MEANS A CERTIFIED NURSE ASSISTANT,~~
32 ~~NURSE AIDE, CERTIFIED MEDICATION AIDE, OR OTHER NURSING HOME EMPLOYEE~~
33 ~~REQUIRED TO PROVIDE DIRECT NURSING CARE TO NURSING HOME RESIDENTS.~~

34 ~~(B) THE DEPARTMENT SHALL TAKE AFFIRMATIVE ACTION TO IMPROVE~~
35 ~~WORKING CONDITIONS AND INCREASE RETENTION OF NURSING HOME DIRECT CARE~~
36 ~~PERSONNEL. THIS ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO, MODIFICATION~~

1 OF THE DEPARTMENT'S MEDICAID REIMBURSEMENT METHODOLOGY TO PROVIDE
2 ADDITIONAL MEDICAID FUNDS FOR:

3 (1) REIMBURSEMENT OF NURSING HOME STAFFING COSTS THAT ARE
4 INCURRED UNDER § 19-1410 OF THIS SUBTITLE;

5 (2) THE REIMBURSEMENT OF TRAINING EXPENSES FOR LICENSED
6 PERSONNEL AND UNLICENSED PERSONNEL; AND

7 (3) DIRECT REIMBURSEMENT TO NURSING HOMES TO INCREASE THE
8 HOURLY WAGE OF CERTIFIED NURSING ASSISTANTS TO A MINIMUM OF \$2 PER HOUR.

9 (C) THE SECRETARY MAY ADOPT THE REGULATIONS NECESSARY TO CARRY
10 OUT THE PROVISIONS OF THIS SECTION.

11 ~~19-1412.~~

12 IF A NURSING HOME FAILS TO MEET THE REQUIREMENTS OF § 19-1410 OF THIS
13 SUBTITLE, THE SECRETARY MAY IMPOSE ONE OR MORE OF THE FOLLOWING
14 PENALTIES:

15 (1) REQUIRE A NURSING HOME TO PROVIDE AN ACCEPTABLE PLAN OF
16 CORRECTION OR SHOW CAUSE TO THE SATISFACTION OF THE DEPARTMENT WHY IT
17 IS IMPOSSIBLE FOR THE NURSING HOME TO MEET THE REQUIREMENTS;

18 (2) SUSPENSION OF THE NURSING HOME LICENSE;

19 (3) REVOCATION OF THE NURSING HOME LICENSE;

20 (4) \$500 PER DAY FOR EACH DAY A VIOLATION CONTINUES; OR

21 (5) DECERTIFICATION.

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That:

24 (a) It is the intent of the General Assembly that the Governor provide in the
25 State budget for Fiscal Year 2002 and Fiscal Year 2003 additional funds to increase
26 payments in the Nursing Service Cost Center of the Medicaid nursing home
27 reimbursement formula as follows:

28 (1) \$10 million in General Funds for Fiscal Year 2002; and

29 (2) \$10 million in General Funds for Fiscal Year 2003.

30 (b) The funds provided in subsection (a) of this section shall be used to enable
31 nursing homes to address the recommendations of the Task Force on Quality of Care
32 in Nursing Homes to:

33 (1) Increase hours of direct care to residents;

1 (2) Increase nursing staff; and

2 (3) Increase wages, fringe benefits, and other forms of compensation
3 provided to direct care personnel.

4 (c) The additional funds may not be used to provide an increase in the profit
5 allowed in the Nursing Service Cost Center.

6 (d) Expenditures by nursing homes shall be subject to audit and cost
7 settlement by the Department of Health and Mental Hygiene.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
9 Health and Mental Hygiene shall reconvene the Medicaid Nursing Home
10 Reimbursement Study Group. The Study Group shall:

11 (a) Review the existing reimbursement formula to ensure it reflects the
12 current and planned requirements of the nursing home program under Medicaid and
13 the care needs of the residents;

14 (b) Review the proposed funding appropriation for Fiscal Year 2002 and Fiscal
15 Year 2003 and make recommendations for changes to the reimbursement formula to
16 ensure that the intent of Section 1 of this Act is achieved; and

17 (c) Report its findings to the Senate Finance Committee and the House
18 Environmental Matters Committee, in accordance with § 2-1246 of the State
19 Government Article, on or before December 1, 2000.

20 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect October 1, 2000.