

HOUSE BILL 784

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2000 Regular Session  
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By: **Delegates Nathan-Pulliam, Hammen, Klausmeier, and Boutin**

Introduced and read first time: February 10, 2000

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 23, 2000

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CHAPTER 213

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~~  
25 ~~Annotated Code of Maryland~~  
26 ~~(1996 Replacement Volume and 1999 Supplement)~~

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

3 ~~Article—Health—General~~

4 ~~19-1410.~~

5 ~~(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
6 ~~INDICATED:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

4                   (II)    ON A FORM PROVIDED BY THE DEPARTMENT.

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

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

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

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

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

22 ~~19-1411-~~

23     (A)     IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED:

25                  (1)     "LICENSED PERSONNEL" MEANS:

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

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

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

33     (B)     THE DEPARTMENT SHALL TAKE AFFIRMATIVE ACTION TO IMPROVE  
34 WORKING CONDITIONS AND INCREASE RETENTION OF NURSING HOME DIRECT CARE  
35 PERSONNEL. THIS ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO, MODIFICATION  
36 OF THE DEPARTMENT'S MEDICAID REIMBURSEMENT METHODOLOGY TO PROVIDE  
37 ADDITIONAL MEDICAID FUNDS FOR:

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

3           (2)     ~~THE REIMBURSEMENT OF TRAINING EXPENSES FOR LICENSED~~  
4 ~~PERSONNEL AND UNLICENSED PERSONNEL; AND~~

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

7     ~~(C)     THE SECRETARY MAY ADOPT THE REGULATIONS NECESSARY TO CARRY~~  
8 ~~OUT THE PROVISIONS OF THIS SECTION.~~

9 19-1412.

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

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

16           (2)     ~~SUSPENSION OF THE NURSING HOME LICENSE;~~

17           (3)     ~~REVOCAION OF THE NURSING HOME LICENSE;~~

18           (4)     ~~\$500 PER DAY FOR EACH DAY A VIOLATION CONTINUES; OR~~

19           (5)     ~~DECERTIFICATION.~~

20     SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That:

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

26           (1)     \$10 million in General Funds for Fiscal Year 2002; and

27           (2)     \$10 million in General Funds for Fiscal Year 2003.

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

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

32           (2)     Increase nursing staff; and

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

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

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

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

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

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

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

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