

# SENATE BILL 934

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By: **Senators Muse, Kelley, and Madaleno**  
Introduced and read first time: February 25, 2011  
Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Homes – Staffing Requirements**

3 FOR the purpose of requiring a nursing home to display a certain notice that lists the  
4 names of certain health care providers that are providing direct care to the  
5 residents on a floor during a shift and that lists the minimum shift ratios  
6 required by a certain provision of law; requiring that the notice be posted in  
7 certain areas on a floor of a nursing home and be in a form that prevents the  
8 information from being erased; requiring a nursing home employee to wear a  
9 certain name tag; requiring certain individuals hired by the nursing home  
10 through a nursing staff agency to wear certain photo identification; requiring a  
11 nursing home to employ sufficient staff to adequately meet the direct care needs  
12 of each resident of the nursing home; requiring a nursing home, on or before  
13 certain dates, to provide sufficient staff to ensure that at least a certain number  
14 of hours of direct care is provided per resident per day; requiring a nursing  
15 home, on or before certain dates, to distribute nursing staff to meet certain  
16 minimum shift ratios; authorizing the Office of Health Care Quality to  
17 authorize a nursing home to meet alternate shift ratios if certain requirements  
18 are met; specifying that the alternate shift ratios may not be less than certain  
19 shift ratios; requiring a nursing home that is authorized to meet alternate shift  
20 ratios to comply with the alternate shift ratios within a certain time period;  
21 specifying that a nursing home may only include hours of direct care that are  
22 provided by certain staff under certain circumstances when calculating the  
23 hours of direct care; requiring a nursing home to give certain notice to the Office  
24 and provide the Office with certain documentation under certain circumstances;  
25 authorizing a nursing home that is unable to meet certain minimum shift ratio  
26 requirements to apply to the Office for a waiver; requiring the Secretary of  
27 Health and Mental Hygiene to adopt certain regulations; requiring a nursing  
28 home to submit a proposed shift schedule to the Office within a certain time  
29 period before the schedule is to be implemented; requiring the Office to review  
30 certain schedules and notify a nursing home of certain information under  
31 certain circumstances; prohibiting a nursing home from implementing a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 proposed shift schedule before the nursing home has received a certain  
 2 notification from the Office; specifying that certain staffing requirements may  
 3 not be construed to limit the ability of a nursing home to employ additional  
 4 staff; requiring a nursing home to employ additional staff under certain  
 5 circumstances; authorizing the Office to require a nursing home to meet certain  
 6 staffing requirements under certain circumstances; requiring a nursing home to  
 7 employ, beginning on a certain date, a director of nursing who meets certain  
 8 requirements; requiring a director of nursing to complete a certain training  
 9 program within a certain time period after being employed by a nursing home;  
 10 requiring the Secretary to make a certain determination and, under certain  
 11 circumstances, adopt certain regulations; requiring the Secretary to develop a  
 12 certain training program; defining certain terms; and generally relating to  
 13 staffing requirements for nursing homes.

14 BY repealing and reenacting, with amendments,  
 15 Article – Health – General  
 16 Section 19–1410(c)  
 17 Annotated Code of Maryland  
 18 (2009 Replacement Volume and 2010 Supplement)

19 BY adding to  
 20 Article – Health – General  
 21 Section 19–1410(d) and 19–1410.2  
 22 Annotated Code of Maryland  
 23 (2009 Replacement Volume and 2010 Supplement)

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

26 **Article – Health – General**

27 19–1410.

28 (c) (1) Each nursing home shall display on each floor of the nursing home  
 29 a notice that:

30 (I) [explains] **EXPLAINS** the current ratio of licensed personnel  
 31 to residents and unlicensed personnel to residents;

32 (II) **LISTS THE NAMES OF THE GERIATRIC NURSING**  
 33 **ASSISTANTS, LICENSED PRACTICAL NURSES, REGISTERED NURSES, AND**  
 34 **NURSING SUPERVISORS WHO ARE PROVIDING DIRECT CARE TO THE RESIDENTS**  
 35 **ON THE FLOOR DURING A SHIFT; AND**

36 (III) **LISTS THE MINIMUM SHIFT RATIOS THE NURSING HOME**  
 37 **IS REQUIRED TO MEET UNDER § 19–1410.2 OF THIS SUBTITLE.**

1           (2)    The notice shall be:

2                   (i)    Posted **IN EACH COMMON AREA AND NURSING STATION**  
3 **ON THE FLOOR:**

4                           1.    **IN A FORM THAT PREVENTS THE INFORMATION**  
5 **FROM BEING ERASED; AND**

6                           2.    **[in] IN** a location that is visible and accessible to  
7 residents and their family or guardians and any potential consumers; and

8                   (ii)    On a form provided by the Department.

9           **(D) (1) A NURSING HOME EMPLOYEE SHALL WEAR AT ALL TIMES A**  
10 **NAME TAG THAT PROMINENTLY DISPLAYS THE EMPLOYEE'S FULL NAME, TITLE,**  
11 **AND WORK ASSIGNMENT.**

12                   **(2) IN ADDITION TO THE NAME TAG REQUIRED UNDER**  
13 **PARAGRAPH (1) OF THIS SUBSECTION, AN INDIVIDUAL HIRED BY THE NURSING**  
14 **HOME THROUGH A NURSING STAFF AGENCY SHALL WEAR AT ALL TIMES PHOTO**  
15 **IDENTIFICATION THAT IDENTIFIES THE NURSING STAFF AGENCY THROUGH**  
16 **WHICH THE NURSING HOME HIRED THE INDIVIDUAL.**

17 **19-1410.2.**

18           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
19 **MEANINGS INDICATED.**

20                   **(2) (I) "DIRECT CARE" MEANS AN ACTIVITY PERFORMED BY A**  
21 **REGISTERED NURSE, A LICENSED PRACTICAL NURSE, A LICENSED GERIATRIC**  
22 **NURSING ASSISTANT, OR, AS DETERMINED BY THE SECRETARY UNDER**  
23 **SUBSECTION (K) OF THIS SECTION, A CERTIFIED MEDICINE AIDE, THAT IS**  
24 **PERFORMED FOR A SPECIFIC RESIDENT OF THE NURSING HOME.**

25                           **(II) "DIRECT CARE" INCLUDES:**

26                                   1.    **ASSISTANCE WITH DAILY LIVING ACTIVITIES,**  
27 **MEDICAL TREATMENTS, AND THE ADMINISTRATION OF MEDICATION;**

28                                   2.    **PHYSICAL AND PSYCHOSOCIAL ASSESSMENTS;**

29                                   3.    **THE COMPLETION OF DOCUMENTATION RELATED**  
30 **TO THE TREATMENT AND CARE OF A RESIDENT;**

1                                   4.     **CARE PLANNING; AND**

2                                   5.     **COMMUNICATION WITH A FAMILY MEMBER OR A**  
3 **HEALTH CARE PROVIDER REGARDING A SPECIFIC RESIDENT.**

4                                   (3)    **“OFFICE” MEANS THE OFFICE OF HEALTH CARE QUALITY IN**  
5 **THE DEPARTMENT.**

6                                   (b)    **A NURSING HOME SHALL EMPLOY SUFFICIENT STAFF TO**  
7 **ADEQUATELY MEET THE DIRECT CARE NEEDS OF EACH RESIDENT OF THE**  
8 **NURSING HOME, INCLUDING THE SPECIAL DIRECT CARE NEEDS OF A RESIDENT**  
9 **WHO HAS DEMENTIA OR ANOTHER MEDICAL CONDITION, AN ILLNESS, OR AN**  
10 **INJURY.**

11                                  (c)    (1)   **ON OR BEFORE OCTOBER 1, 2011, A NURSING HOME SHALL**  
12 **PROVIDE SUFFICIENT STAFF TO ENSURE THAT AT LEAST 3 HOURS OF DIRECT**  
13 **CARE ARE PROVIDED PER RESIDENT PER DAY.**

14                                  (2)    **NURSING STAFF, ROUNDED TO THE NEAREST WHOLE PERSON,**  
15 **SHALL BE DISTRIBUTED TO MEET THE FOLLOWING MINIMUM SHIFT RATIOS:**

16                                   (i)    **FOR THE DAY SHIFT:**

17   1.    **1 REGISTERED NURSE OR LICENSED PRACTICAL**  
18 **NURSE TO EVERY 20 RESIDENTS; AND**

19   2.    **1 GERIATRIC NURSING ASSISTANT TO EVERY 9**  
20 **RESIDENTS;**

21                                   (ii)   **FOR THE EVENING SHIFT:**

22   1.    **1 REGISTERED NURSE OR LICENSED PRACTICAL**  
23 **NURSE TO EVERY 25 RESIDENTS; AND**

24   2.    **1 GERIATRIC NURSING ASSISTANT TO EVERY 10**  
25 **RESIDENTS; AND**

26                                   (iii)  **FOR THE NIGHT SHIFT:**

27   1.    **1 REGISTERED NURSE OR LICENSED PRACTICAL**  
28 **NURSE TO EVERY 40 RESIDENTS; AND**

29   2.    **1 GERIATRIC NURSING ASSISTANT TO EVERY 22**  
30 **RESIDENTS.**

1           **(D) (1) ON OR BEFORE MAY 1, 2012, A NURSING HOME SHALL**  
2 **PROVIDE SUFFICIENT STAFF TO ENSURE THAT AT LEAST 3.28 HOURS OF DIRECT**  
3 **CARE ARE PROVIDED PER RESIDENT PER DAY.**

4           **(2) NURSING STAFF, ROUNDED TO THE NEAREST WHOLE PERSON,**  
5 **SHALL BE DISTRIBUTED TO MEET THE FOLLOWING MINIMUM SHIFT RATIOS:**

6                   **(I) FOR THE DAY SHIFT:**

7                           1.    **1 REGISTERED NURSE OR LICENSED PRACTICAL**  
8 **NURSE TO EVERY 15 RESIDENTS; AND**

9                           2.    **1 GERIATRIC NURSING ASSISTANT TO EVERY 8**  
10 **RESIDENTS;**

11                   **(II) FOR THE EVENING SHIFT:**

12                           1.    **1 REGISTERED NURSE OR LICENSED PRACTICAL**  
13 **NURSE TO EVERY 23 RESIDENTS; AND**

14                           2.    **1 GERIATRIC NURSING ASSISTANT TO EVERY 10**  
15 **RESIDENTS; AND**

16                   **(III) FOR THE NIGHT SHIFT:**

17                           1.    **1 REGISTERED NURSE OR LICENSED PRACTICAL**  
18 **NURSE TO EVERY 40 RESIDENTS; AND**

19                           2.    **1 GERIATRIC NURSING ASSISTANT TO EVERY 20**  
20 **RESIDENTS.**

21           **(3) (I) THE OFFICE MAY AUTHORIZE A NURSING HOME TO**  
22 **MEET ALTERNATE SHIFT RATIOS IF:**

23                           1.    **THE NURSING HOME IS MEETING THE**  
24 **REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION; AND**

25                           2.    **MEETING THE SHIFT RATIOS REQUIRED BY**  
26 **PARAGRAPH (2) OF THIS SUBSECTION WOULD REQUIRE THE NURSING HOME TO**  
27 **PROVIDE MORE THAN 3.28 HOURS OF DIRECT CARE PER RESIDENT PER DAY.**

1                   **(II) THE ALTERNATE SHIFT RATIOS AUTHORIZED BY THE**  
2 **OFFICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE LESS**  
3 **THAN:**

4                   **1. FOR THE DAY SHIFT, 1 REGISTERED NURSE OR**  
5 **LICENSED PRACTICAL NURSE TO EVERY 20 RESIDENTS AND 1 GERIATRIC**  
6 **NURSING ASSISTANT TO EVERY 9 RESIDENTS;**

7                   **2. FOR THE EVENING SHIFT, 1 REGISTERED NURSE**  
8 **OR LICENSED PRACTICAL NURSE TO EVERY 25 RESIDENTS AND 1 GERIATRIC**  
9 **NURSING ASSISTANT TO EVERY 10 RESIDENTS; AND**

10                   **3. FOR THE NIGHT SHIFT, 1 REGISTERED NURSE OR**  
11 **LICENSED PRACTICAL NURSE TO EVERY 40 RESIDENTS AND 1 GERIATRIC**  
12 **NURSING ASSISTANT TO EVERY 22 RESIDENTS.**

13                   **(III) IF THE OFFICE AUTHORIZES A NURSING HOME TO MEET**  
14 **ALTERNATE SHIFT RATIOS, THE NURSING HOME SHALL COMPLY WITH THE**  
15 **ALTERNATIVE SHIFT RATIOS WITHIN 1 DAY AFTER THE AUTHORIZATION IS**  
16 **GIVEN.**

17                   **(E) (1) ON OR BEFORE MAY 1, 2013, A NURSING HOME SHALL**  
18 **PROVIDE SUFFICIENT STAFF TO ENSURE THAT AT LEAST 3.67 HOURS OF DIRECT**  
19 **CARE ARE PROVIDED PER RESIDENT PER DAY.**

20                   **(2) NURSING STAFF, ROUNDED TO THE NEAREST WHOLE PERSON,**  
21 **SHALL BE DISTRIBUTED TO MEET THE FOLLOWING MINIMUM SHIFT RATIOS:**

22                   **(I) FOR THE DAY SHIFT:**

23                   **1. 1 REGISTERED NURSE OR LICENSED PRACTICAL**  
24 **NURSE TO EVERY 15 RESIDENTS; AND**

25                   **2. 1 GERIATRIC NURSING ASSISTANT TO EVERY 7**  
26 **RESIDENTS;**

27                   **(II) FOR THE EVENING SHIFT:**

28                   **1. 1 REGISTERED NURSE OR LICENSED PRACTICAL**  
29 **NURSE TO EVERY 20 RESIDENTS; AND**

30                   **2. 1 GERIATRIC NURSING ASSISTANT TO EVERY 9**  
31 **RESIDENTS; AND**

1 (III) FOR THE NIGHT SHIFT:

2 1. 1 REGISTERED NURSE OR LICENSED PRACTICAL  
3 NURSE TO EVERY 29 RESIDENTS; AND

4 2. 1 GERIATRIC NURSING ASSISTANT TO EVERY 19  
5 RESIDENTS.

6 (F) (1) WHEN CALCULATING THE HOURS OF DIRECT CARE PROVIDED  
7 PER RESIDENT PER DAY, A NURSING HOME MAY ONLY INCLUDE HOURS OF  
8 DIRECT CARE THAT ARE PROVIDED BY A DIRECTOR OR ASSISTANT DIRECTOR OF  
9 NURSING IF THERE IS AN EMERGENCY THAT REQUIRES THE DIRECTOR OR  
10 ASSISTANT DIRECTOR TO GIVE DIRECT CARE TO RESIDENTS.

11 (2) IF A NURSING HOME INCLUDES IN ITS DIRECT CARE  
12 CALCULATION HOURS OF DIRECT CARE PROVIDED BY A DIRECTOR OR  
13 ASSISTANT DIRECTOR OF NURSING, AS AUTHORIZED IN PARAGRAPH (1) OF THIS  
14 SUBSECTION, THE NURSING HOME, WITHIN 24 HOURS AFTER THE OCCURRENCE  
15 OF THE EMERGENCY, SHALL:

16 (I) NOTIFY THE OFFICE IN WRITING OF THE  
17 CIRCUMSTANCES SURROUNDING THE EMERGENCY; AND

18 (II) PROVIDE THE OFFICE WITH DOCUMENTATION OF THE  
19 NUMBER OF HOURS OF DIRECT CARE PROVIDED BY THE DIRECTOR OR  
20 ASSISTANT DIRECTOR OF NURSING.

21 (G) (1) IF A NURSING HOME IS UNABLE TO MEET THE MINIMUM SHIFT  
22 RATIOS REQUIRED BY SUBSECTION (C), (D), OR (E) OF THIS SECTION DUE TO  
23 BUILDING CONFIGURATION OR OTHER SPECIAL CIRCUMSTANCES, THE NURSING  
24 HOME MAY APPLY TO THE OFFICE FOR A WAIVER.

25 (2) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT  
26 PARAGRAPH (1) OF THIS SUBSECTION.

27 (H) (1) A NURSING HOME SHALL SUBMIT A PROPOSED SHIFT  
28 SCHEDULE TO THE OFFICE AT LEAST 1 WEEK BEFORE THE NURSING HOME  
29 INTENDS TO IMPLEMENT THE SHIFT SCHEDULE.

30 (2) THE OFFICE SHALL REVIEW A PROPOSED SHIFT SCHEDULE  
31 SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DETERMINE  
32 WHETHER THE NURSING HOME WOULD MEET THE STAFFING REQUIREMENTS OF  
33 THIS SECTION BY IMPLEMENTING THE SCHEDULE.

1           **(3) (I) IF THE PROPOSED SHIFT SCHEDULE MEETS THE**  
2 **REQUIREMENTS OF THIS SECTION, THE OFFICE SHALL NOTIFY THE NURSING**  
3 **HOME THAT THE NURSING HOME MAY IMPLEMENT THE SCHEDULE.**

4           **(II) IF THE PROPOSED SHIFT SCHEDULE DOES NOT MEET**  
5 **THE REQUIREMENTS OF THIS SECTION, THE OFFICE SHALL NOTIFY THE**  
6 **NURSING HOME AND THE NURSING HOME SHALL SUBMIT TO THE OFFICE A**  
7 **REVISED PROPOSED SHIFT SCHEDULE.**

8           **(4) A NURSING HOME MAY NOT IMPLEMENT A PROPOSED SHIFT**  
9 **SCHEDULE BEFORE THE NURSING HOME HAS RECEIVED NOTIFICATION FROM**  
10 **THE OFFICE UNDER PARAGRAPH (3) OF THIS SUBSECTION THAT THE NURSING**  
11 **HOME MAY IMPLEMENT THE SCHEDULE.**

12           **(I) (1) THE STAFFING REQUIREMENTS OF THIS SECTION MAY NOT BE**  
13 **CONSTRUED TO LIMIT THE ABILITY OF A NURSING HOME TO EMPLOY**  
14 **ADDITIONAL STAFF.**

15           **(2) A NURSING HOME SHALL EMPLOY ADDITIONAL STAFF IF THE**  
16 **NEEDS OF THE RESIDENTS OF THE NURSING HOME ARE NOT BEING MET**  
17 **THROUGH THE STAFFING REQUIREMENTS OF THIS SECTION.**

18           **(3) IF THE OFFICE FINDS THAT THE NEEDS OF THE RESIDENTS**  
19 **OF A NURSING HOME ARE NOT BEING MET, THE OFFICE MAY REQUIRE THE**  
20 **NURSING HOME TO MEET STAFFING REQUIREMENTS THAT EXCEED THOSE OF**  
21 **THIS SECTION.**

22           **(J) (1) BEGINNING JULY 1, 2013, A NURSING HOME SHALL EMPLOY A**  
23 **FULL-TIME DIRECTOR OF NURSING WHO:**

24                   **(I) IS A REGISTERED NURSE; AND**

25                   **(II) HAS WORKED FOR AT LEAST 2 YEARS AS A REGISTERED**  
26 **NURSE IN A LONG-TERM CARE FACILITY.**

27           **(2) WITHIN 3 MONTHS AFTER BEING EMPLOYED BY A NURSING**  
28 **HOME, A DIRECTOR OF NURSING SHALL COMPLETE THE TRAINING PROGRAM**  
29 **THAT IS DEVELOPED BY THE DEPARTMENT UNDER SUBSECTION (K) OF THIS**  
30 **SECTION.**

31           **(K) THE SECRETARY:**

1                   **(1) (I) SHALL DETERMINE WHETHER A MEDICINE AIDE MAY**  
2 **BE COUNTED TOWARD THE MINIMUM STAFF RATIOS REQUIRED BY THIS**  
3 **SECTION; AND**

4                   **(II) IF THE SECRETARY DETERMINES THAT A MEDICINE**  
5 **AIDE MAY BE COUNTED, SHALL ADOPT REGULATIONS THAT SPECIFY HOW A**  
6 **NURSING HOME IS TO COUNT A MEDICINE AIDE; AND**

7                   **(2) SHALL DEVELOP A TRAINING PROGRAM FOR DIRECTORS OF**  
8 **NURSING IN NURSING HOMES THAT CAN BE ACCESSED AND COMPLETED BY**  
9 **DIRECTORS OF NURSING THROUGH DIFFERENT METHODS, INCLUDING USE OF**  
10 **THE INTERNET AND MAIL.**

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 June 1, 2011.