

HOUSE BILL 791

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1999 Regular Session  
9lr1564  
CF 9lr2540

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By: **Delegates Nathan-Pulliam, Benson, Cadden, Cane, C. Davis, D. Davis,  
Dobson, Frush, Howard, Klausmeier, Marriott, Morhaim, Oaks, Paige,  
and ~~Stull~~ **Stull, and Stern****

Introduced and read first time: February 12, 1999  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 22, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Nursing Facilities – Licensure Requirements – Staffing**  
3 **Task Force on Staffing Requirements in Nursing Facilities**

4 FOR the purpose of ~~requiring nursing facilities to meet certain staffing requirements~~  
5 ~~to qualify for licensure; requiring nursing facilities to employ certain individuals~~  
6 ~~for certain positions; specifying certain duties that certain individuals may not~~  
7 ~~perform; specifying the staffing to resident ratio requirements for nursing~~  
8 ~~facilities; requiring nursing facilities to post certain information in certain areas~~  
9 ~~of the facility on a certain form developed by the Department of Health and~~  
10 ~~Mental Hygiene; providing for certain penalties; providing for the application of~~  
11 ~~this Act; requiring the Department to conduct a certain study and to report to~~  
12 ~~the General Assembly by a certain date; authorizing the Department to adopt~~  
13 ~~certain regulations; defining a certain term; and generally relating to staffing~~  
14 ~~requirements for nursing facilities establishing a Task Force on Staffing~~  
15 ~~Requirements in Nursing Facilities to examine certain staffing requirements in~~  
16 ~~nursing facilities; requiring the Task Force to submit a certain report on or~~  
17 ~~before a certain date; providing for the membership of the Task Force; requiring~~  
18 ~~the Governor to appoint the Chairman of the Task Force; requiring the~~  
19 ~~Department of Health and Mental Hygiene to staff the Task Force; providing~~  
20 ~~that a member of the Task Force may not be compensated but may receive travel~~  
21 ~~expenses; providing for the termination date of the Task Force; and generally~~  
22 ~~relating to a Task Force to examine the staffing requirements in nursing~~  
23 ~~facilities.~~

24 ~~BY repealing and reenacting, with amendments,~~  
25 ~~Article – Health – General~~

1 ~~Section 19-319(a)~~  
 2 ~~Annotated Code of Maryland~~  
 3 ~~(1996 Replacement Volume and 1998 Supplement)~~

4 ~~BY adding to~~  
 5 ~~Article Health General~~  
 6 ~~Section 19-319.3~~  
 7 ~~Annotated Code of Maryland~~  
 8 ~~(1996 Replacement Volume and 1998 Supplement)~~

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

11 ~~Article Health General~~

12 ~~19-319.~~

13 (a) (1) ~~To qualify for a license, an applicant and the hospital or related~~  
 14 ~~institution to be operated shall meet the requirements of this section.~~

15 (2) ~~IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, TO QUALIFY~~  
 16 ~~FOR A LICENSE, A NURSING FACILITY SHALL MEET THE REQUIREMENTS OF § 19-319.3~~  
 17 ~~OF THIS SUBTITLE.~~

18 ~~19-319.3.~~

19 (A) ~~IN THIS SECTION, "LICENSED PERSONNEL" MEANS:~~

20 (1) ~~A REGISTERED NURSE WHO IS LICENSED TO PRACTICE IN THE~~  
 21 ~~STATE; OR~~

22 (2) ~~A PRACTICAL NURSE WHO IS LICENSED TO PRACTICE IN THE STATE.~~

23 (B) ~~A NURSING FACILITY SHALL EMPLOY STAFF SUFFICIENT IN NUMBER AND~~  
 24 ~~QUALIFICATIONS TO MEET THE SCHEDULED AND UNSCHEDULED NURSING CARE~~  
 25 ~~NEEDS OF THE RESIDENTS.~~

26 (C) ~~TO ENSURE COMPLIANCE WITH SUBSECTION (B) OF THIS SECTION, A~~  
 27 ~~NURSING FACILITY SHALL:~~

28 (1) ~~ESTABLISH AND EMPLOY REGISTERED NURSES WHO ARE LICENSED~~  
 29 ~~TO PRACTICE IN THE STATE FOR THE FOLLOWING POSITIONS:~~

30 (I) ~~A FULL TIME DIRECTOR OF NURSING;~~

31 (H) ~~FOR NURSING FACILITIES WITH 100 BEDS OR MORE, A~~  
 32 ~~FULL TIME ASSISTANT DIRECTOR OF NURSING;~~

1                   (III)    NURSING SUPERVISORS ON DUTY AT ALL TIMES, 24 HOURS A  
2 DAY, 7 DAYS A WEEK; AND

3                   (IV)    A FULL-TIME DIRECTOR TO SUPERVISE THE IN-SERVICE  
4 EDUCATION PROGRAM REQUIRED UNDER § 19-319.1 OF THIS SUBTITLE;

5                   (2)     MAINTAIN A RATIO OF LICENSED PERSONNEL TO RESIDENTS OF NO  
6 FEWER THAN:

7                   (I)     ONE LICENSED PERSONNEL TO 15 RESIDENTS DURING THE  
8 MORNING SHIFT;

9                   (II)    ONE LICENSED PERSONNEL TO 25 RESIDENTS DURING THE  
10 AFTERNOON SHIFT; AND

11                  (III)   ONE LICENSED PERSONNEL TO 35 RESIDENTS DURING THE  
12 NIGHT SHIFT; AND

13                  (3)     MAINTAIN A RATIO OF CERTIFIED NURSING ASSISTANTS TO  
14 RESIDENTS OF NO FEWER THAN:

15                  (I)     ONE CERTIFIED NURSING ASSISTANT TO FIVE RESIDENTS  
16 DURING THE MORNING SHIFT;

17                  (II)    ONE CERTIFIED NURSING ASSISTANT TO 10 RESIDENTS  
18 DURING THE AFTERNOON SHIFT; AND

19                  (III)   ONE CERTIFIED NURSING ASSISTANT TO 15 RESIDENTS  
20 DURING THE NIGHT SHIFT.

21                  (D)    (1)     LICENSED PERSONNEL AND CERTIFIED NURSING ASSISTANTS MAY  
22 NOT PROVIDE FOOD PREPARATION, HOUSEKEEPING, LAUNDRY, OR MAINTENANCE  
23 SERVICES.

24                  (2)     AN INDIVIDUAL EMPLOYED TO PROVIDE FOOD PREPARATION,  
25 HOUSEKEEPING, LAUNDRY, OR MAINTENANCE SERVICES MAY NOT PROVIDE  
26 NURSING CARE TO RESIDENTS.

27                  (E)    (1)     A NURSING FACILITY SHALL DISPLAY ON EACH FLOOR OF THE  
28 FACILITY A NOTICE THAT EXPLAINS THE CURRENT RATIO OF LICENSED PERSONNEL  
29 TO RESIDENTS AND CERTIFIED NURSING ASSISTANTS TO RESIDENTS.

30                  (2)     THE NOTICE SHALL BE:

31                   (I)     POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO  
32 RESIDENTS, FAMILY MEMBERS OF THE RESIDENTS, CAREGIVERS, AND POTENTIAL  
33 CONSUMERS; AND

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

1 ~~(F) THE STAFFING REQUIREMENTS UNDER THIS SECTION ARE MINIMUM~~  
2 ~~STAFFING REQUIREMENTS AND SHALL NOT BE CONSTRUED TO LIMIT THE ABILITY~~  
3 ~~OF THE NURSING FACILITY TO EMPLOY ADDITIONAL STAFF.~~

4 ~~(G) THE SECRETARY MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT~~  
5 ~~THE PROVISIONS OF THIS SECTION.~~

6 ~~(H) IF A NURSING FACILITY FAILS TO MEET THE REQUIREMENTS OF THIS~~  
7 ~~SECTION, THE SECRETARY MAY IMPOSE THE FOLLOWING PENALTIES:~~

8 ~~(1) DELICENSURE OF THE NURSING FACILITY;~~

9 ~~(2) \$500 PER DAY FOR EACH DAY THE VIOLATION CONTINUES; OR~~

10 ~~(3) BOTH.~~

11 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

12 ~~(a) The Department of Health and Mental Hygiene shall:~~

13 ~~(1) Conduct a study to determine whether the staffing ratios and~~  
14 ~~standards provided in this Act are sufficient to meet the needs of residents in nursing~~  
15 ~~facilities including determining appropriate levels of staffing based on resident~~  
16 ~~acuity; and~~

17 ~~(2) Recommend, if necessary, a methodology for determining appropriate~~  
18 ~~levels of staffing.~~

19 ~~(b) In conducting the study, the Department shall consider recommendations~~  
20 ~~from nursing facilities, licensed health care providers, advocacy groups, and other~~  
21 ~~interested parties.~~

22 ~~(c) On or before January 2001 and every 5 years thereafter, the Department~~  
23 ~~shall submit its findings and recommendations to the General Assembly, in~~  
24 ~~accordance with § 2-1246 of the State Government Article.~~

25 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect~~  
26 ~~October 1, 1999.~~

27 ~~(a) There is a Task Force on Staffing Requirements in Nursing Facilities.~~

28 ~~(b) The Task Force shall consist of the following members:~~

29 ~~(1) a member of the Senate Finance Committee, appointed by the~~  
30 ~~President of the Senate;~~

31 ~~(2) a member of the House Environmental Matters Committee,~~  
32 ~~appointed by the Speaker of the House;~~

33 ~~(3) the Secretary of Health and Mental Hygiene, or the Secretary's~~  
34 ~~designee;~~

1           (4)     two representatives from the nursing facility industry, appointed by  
2 the Governor;

3           (5)     a registered nurse with training and experience in geriatric medicine,  
4 appointed by the Governor;

5           (6)     a certified nursing assistant with training and experience in geriatric  
6 medicine, appointed by the Governor;

7           (7)     a licensed physician with training and experience in geriatric  
8 medicine, appointed by the Governor;

9           (8)     a licensed social worker, appointed by the Governor;

10          (9)     a representative from a local union representing employees in  
11 nursing facilities, appointed by the Governor;

12          (10)    a public member representing a patient advocacy group for seniors,  
13 appointed by the Governor; and

14          (11)    two consumers of nursing facility services which may include a  
15 consumer who has a relative in a nursing facility, appointed by the Governor.

16       (b)     The Governor shall designate one of the members as chairman of the Task  
17 Force.

18       (c)     The Task Force shall:

19           (1)     examine the staffing patterns and standards that currently exist in  
20 nursing facilities in Maryland;

21           (2)     conduct a study to determine the appropriate staffing ratios and  
22 standards necessary to meet the needs of residents in nursing facilities, including  
23 determining appropriate levels of staffing based on resident acuity;

24           (3)     recommend, if necessary, a methodology for determining appropriate  
25 levels of staffing and standards; and

26           (4)     report its recommendations to the Governor and, in accordance with  
27 § 2-1246 of the State Government Article, to the Senate Finance Committee and the  
28 House Environmental Matters Committee on or before August 1, 2000.

29       (d)     The Department of Health and Mental Hygiene shall provide staff support  
30 for the Task Force.

31       (e)     A member of the Task Force:

32           (1)     may not receive compensation; but

33           (2)     is entitled to reimbursement for expenses under the Standard State  
34 Travel Regulations, as provided in the State budget.

1     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 1999. It shall remain effective for a period of 1 year and 10 months and, at the  
3 end of April 30, 2001, with no further action required by the General Assembly, this  
4 Act shall be abrogated and of no further force and effect.