

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

A BILL ENTITLED

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 BY adding to
14 Article - Health - General
15 Section 19-1410 through 19-1412
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1999 Supplement)

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

20 **Article - Health - General**

21 19-1410.

22 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (1) "LICENSED PERSONNEL" MEANS:

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

1 (II) A PRACTICAL NURSE WHO IS LICENSED TO PRACTICE IN THE
2 STATE.

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

6 (B) A NURSING HOME SHALL EMPLOY STAFF SUFFICIENT IN NUMBER AND
7 QUALIFICATIONS TO MEET THE SCHEDULED AND UNSCHEDULED NURSING CARE
8 NEEDS OF THE RESIDENTS.

9 (C) TO QUALIFY FOR A LICENSE OR RENEWAL LICENSE:

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

12 (2) OF THE TOTAL DIRECT NURSING CARE HOURS PER PATIENT PER
13 DAY, AT LEAST 3 HOURS OF THAT CARE SHALL BE PROVIDED BY UNLICENSED
14 PERSONNEL AND AT LEAST 1 HOUR OF THAT CARE SHALL BE PROVIDED BY
15 LICENSED PERSONNEL;

16 (3) LICENSED PERSONNEL AND UNLICENSED PERSONNEL MAY NOT
17 PROVIDE FOOD PREPARATION, HOUSEKEEPING, LAUNDRY, OR MAINTENANCE
18 SERVICES; AND

19 (4) AN INDIVIDUAL EMPLOYED TO PROVIDE FOOD PREPARATION,
20 HOUSEKEEPING, LAUNDRY, OR MAINTENANCE SERVICES MAY NOT PROVIDE
21 NURSING CARE TO RESIDENTS.

22 (D) (1) A NURSING HOME SHALL DISPLAY ON EACH FLOOR OF THE HOME A
23 NOTICE THAT EXPLAINS THE CURRENT RATIO OF LICENSED PERSONNEL TO
24 RESIDENTS AND UNLICENSED PERSONNEL TO RESIDENTS.

25 (2) THE NOTICE SHALL BE:

26 (I) POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO
27 RESIDENTS, FAMILY MEMBERS OF THE RESIDENTS, CAREGIVERS, AND POTENTIAL
28 CONSUMERS; AND

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

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

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

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

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

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

12 19-1411.

13 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (1) "LICENSED PERSONNEL" MEANS:

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

18 (II) A PRACTICAL NURSE WHO IS LICENSED TO PRACTICE IN THE
19 STATE.

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

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

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

30 (2) THE REIMBURSEMENT OF TRAINING EXPENSES FOR LICENSED
31 PERSONNEL AND UNLICENSED PERSONNEL; AND

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

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

1 19-1412.

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

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

8 (2) SUSPENSION OF THE NURSING HOME LICENSE;

9 (3) REVOCATION OF THE NURSING HOME LICENSE;

10 (4) \$500 PER DAY FOR EACH DAY A VIOLATION CONTINUES; OR

11 (5) DECERTIFICATION.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2000.