

AN ACT relating to minimum staffing requirements for long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

- (1) Long-term care facilities have an insufficient number of direct-care staff, including nursing aides, registered nurses, and licensed practical nurses;*
- (2) Approximately thirty-seven (37) states have implemented staffing requirements that are more stringent than the federal staffing standards;*
- (3) Currently, Kentucky follows the federal staffing standards, which require one (1) registered nurse on duty for eight (8) consecutive hours per day for seven (7) days per week and one (1) registered nurse or licensed practical nurse on duty for twenty-four (24) hours per day for seven (7) days a week, but Kentucky does not have staffing requirements in long-term care facilities that go beyond these requirements;*
- (4) Federal staffing standards do not require a minimum level of staff that are nurse aides;*
- (5) Having too few nurse aides compromises patient safety and places residents at risk for health conditions and injuries, including but not limited to bedsores, dehydration, malnutrition, and broken bones from falls;*
- (6) Kentucky can improve the safety of residents of long-term care facilities by requiring a specified staff-to-patient ratio that exceeds the federal minimum staffing standards; and*
- (7) It is in the best interests of the citizens of the Commonwealth for the General Assembly to require long-term care facilities to maintain a specified staff-to-patient ratio that exceeds the federal staffing standards and improves access to better care to patients in need of long-term care services.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health and Family Services shall implement a system that shall include but not be limited to the following staff-to-resident ratios as a condition of licensure or relicensure:

(1) On and after July 30, 2008, a long-term care facility shall maintain a ratio of unlicensed nursing personnel to nursing facility residents of no fewer than:

(a) One (1) nurse aide to nine (9) residents during the day shift;

(b) One (1) nurse aide to thirteen (13) residents during an evening shift; and

(c) One (1) nurse aide to nineteen (19) residents during the night shift;

(2) On and after July 30, 2008, a long-term care facility shall maintain a ratio of direct-care registered nurses or licensed practical nurses of no fewer than:

(a) One (1) nurse to twenty-one (21) residents during the day shift;

(b) One (1) nurse to twenty-nine (29) residents during the evening shift; and

(c) One (1) nurse to forty-two (42) residents during the night shift;

(3) On and after July 30, 2008, long-term care facilities with seventy-five (75) or more beds shall employ a registered nurse supervisor during the day and evening shifts, in addition to the nurses required under subsection (2) of this section;

(4) On and after July 30, 2008, long-term care facilities with one hundred (100) or more beds shall employ the following staff, in addition to the nurses required under subsections (2) and (3) of this section:

(a) A registered nurse supervisor during the night shift;

(b) A full-time assistant director of nursing; and

(c) A full-time director of education;

(5) All minimum staffing ratios in subsections (1) and (2) shall be computed on the basis of a weekly average. For the purpose of this section, a "week" is defined as the days Sunday through Saturday;

- (6) Registered nurses or licensed practical nurses may be used to comply with the minimum staffing requirements for nurse aides in subsection (1) of this section if:
- (a) The minimum staffing requirements for registered nurses or licensed practical nurses in subsection (2) of this section also are maintained at the facility; and
- (b) The registered nurses or licensed practical nurses are performing the duties of a nurse aid;
- (7) An employee designated as a member of the nursing staff shall not be required to provide nonnursing services, including but not limited to food preparation, laundry, or maintenance services, except as necessary to maintain a safe and sanitary environment. Persons providing nonnursing services shall not be counted in determining the staffing ratios required by this section;
- (8) A long-term care facility that has failed to comply with the minimum staffing requirements under this section for two (2) consecutive days shall be prohibited from accepting new admissions until the facility has achieved the required staffing for a period of six (6) consecutive days. Exceptions may be allowed for absences due to weather emergencies or other similar events beyond the control of the facility. A resident of a long-term care facility who is absent from the facility for the purpose of receiving medical care at a separate location or is on a leave of absence is not considered a new admission;
- (9) The staffing ratios required under this section shall be the minimum nursing staff requirements and shall be adjusted upwards only to meet the care needs of the residents. Any modification of staffing ratios based on acuity of care shall be recorded by the nursing facility for each nursing unit for each day and each shift. A report shall be made each quarter of the state fiscal year to the Office of Inspector General within the Cabinet for Health and Family Services on direct-

care staffing based on the acuity of the residents. These records shall be open for inspection upon request; and

(10) State intermediate-care facilities for the mentally retarded, institutions for the treatment of mental illness, personal-care homes, and family-care homes are exempted from the provisions of this section.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health and Family Services shall create a nineteen (19) member Long-Term Care Minimum Staffing Committee to review requirements in long-term care facilities on an annual basis. Membership shall consist of the following:

(a) The commissioner of the Department for Medicaid Services or a designee;

(b) The commissioner of the Department for Aging and Independent Living or a designee;

(c) The Inspector General or a designee;

(d) The executive director of the Alzheimer's Association or a designee;

(e) A nursing home administrator as designated by the board of directors of the Kentucky Association of Health Care Facilities;

(f) The president of the Kentucky Hospital Association or a designee;

(g) Three (3) district long-term care ombudsmen representing diverse areas of the state;

(h) A person designated by the Kentucky chapter of AARP;

(i) A hospice administrator as designated by the Kentucky Association of Hospice and Palliative Care;

(j) One (1) nurse who is currently employed by a long-term care facility, as designated by the Kentucky Nurses Association;

(k) A nursing home administrator as designated by the board of directors of the

Kentucky Association of Homes and Services for the Aging or a designee;

- (l) Three (3) members of a nursing home family, as designated by the state long-term care ombudsman, from diverse areas of the state, and who shall not be selected from a nursing home that is represented by a member of the committee;
- (m) The president of Kentuckians for Nursing Home Reform; and
- (n) The co-chairs of the Interim Joint Committee on Health and Welfare.
- (2) A quorum of the committee shall be nine (9) or more members. Members appointed in paragraph (n) of subsection (1) of this section shall only serve the committee in an advisory capacity, shall not have authority to vote, and shall not be considered when establishing a quorum of the committee.
- (3) The Cabinet for Health and Family Services shall provide sufficient staff for the committee.
- (4) The chair of the committee shall be chosen from the members identified in paragraphs (d) to (m) of subsection (1) of this section. The committee shall meet upon call of the chair or by nine (9) members of the committee.
- (5) The Office of Inspector General within the Cabinet for Health and Family Services shall enforce compliance with Section 2 of this Act.
- (6) A long-term care facility that violates Section 2 of this Act shall be subject to a civil fine of no more than one thousand dollars (\$1,000) for each day that the staffing requirement is not maintained.