

SB1465



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1465

Introduced 1/31/2025, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-202.05

210 ILCS 45/3-209

from Ch. 111 1/2, par. 4153-209

Amends the Nursing Home Care Act. Adds infection preventionists, minimum data set assessment nurses, other social workers, certified nursing assistant interns, and medication aides to the list of direct care staff used to compute staff to resident ratios. Provides that, except as otherwise provided by law, 100% of the hours worked by the specified staff shall be counted toward the staff to resident ratio. Provides that no monetary penalties shall be imposed unless the variance between a facility's minimum staffing ratios and the Department of Public Health's computations exceeds 20%. Removes a provision prohibiting waiver of a monetary penalty for non-compliance. In provisions concerning reporting requirements for facilities that violate the minimum staffing requirements, provides that the facility must have a variance that exceeds 20% of the requirements. Makes other changes. Effective immediately.

LRB104 08274 BAB 18324 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by
5 changing Sections 3-202.05 and 3-209 as follows:

6 (210 ILCS 45/3-202.05)

7 Sec. 3-202.05. Staffing ratios effective July 1, 2010 and
8 thereafter.

9 (a) For the purpose of computing staff to resident ratios,
10 direct care staff shall include:

- 11 (1) registered nurses;
- 12 (2) licensed practical nurses;
- 13 (3) certified nurse assistants;
- 14 (4) psychiatric services rehabilitation aides;
- 15 (5) rehabilitation and therapy aides;
- 16 (6) psychiatric services rehabilitation coordinators;
- 17 (7) assistant directors of nursing;
- 18 (8) 50% of the Director of Nurses' time; ~~and~~
- 19 (9) 30% of the Social Services Directors' time; ~~and~~
- 20 (10) infection preventionists;
- 21 (11) minimum data set assessment nurses;
- 22 (12) other social workers;
- 23 (13) certified nursing assistant interns; and

1 (14) medication aides.

2 Except as otherwise provided by law, 100% of the hours
3 worked by the staff listed in this subsection shall be counted
4 toward the staff to resident ratio. The Department shall, by
5 rule, allow certain facilities subject to 77 Ill. Adm. Code
6 300.4000 and following (Subpart S) to utilize specialized
7 clinical staff, as defined in rules, to count towards the
8 staffing ratios.

9 Within 120 days of June 14, 2012 (the effective date of
10 Public Act 97-689), the Department shall promulgate rules
11 specific to the staffing requirements for facilities federally
12 defined as Institutions for Mental Disease. These rules shall
13 recognize the unique nature of individuals with chronic mental
14 health conditions, shall include minimum requirements for
15 specialized clinical staff, including clinical social workers,
16 psychiatrists, psychologists, and direct care staff set forth
17 in paragraphs (4) through (6) and any other specialized staff
18 which may be utilized and deemed necessary to count toward
19 staffing ratios.

20 Within 120 days of June 14, 2012 (the effective date of
21 Public Act 97-689), the Department shall promulgate rules
22 specific to the staffing requirements for facilities licensed
23 under the Specialized Mental Health Rehabilitation Act of
24 2013. These rules shall recognize the unique nature of
25 individuals with chronic mental health conditions, shall
26 include minimum requirements for specialized clinical staff,

1 including clinical social workers, psychiatrists,
2 psychologists, and direct care staff set forth in paragraphs
3 (4) through (6) and any other specialized staff which may be
4 utilized and deemed necessary to count toward staffing ratios.

5 (b) (Blank).

6 (b-5) For purposes of the minimum staffing ratios in this
7 Section, all residents shall be classified as requiring either
8 skilled care or intermediate care.

9 As used in this subsection:

10 "Intermediate care" means basic nursing care and other
11 restorative services under periodic medical direction.

12 "Skilled care" means skilled nursing care, continuous
13 skilled nursing observations, restorative nursing, and other
14 services under professional direction with frequent medical
15 supervision.

16 (c) Facilities shall notify the Department within 60 days
17 after July 29, 2010 (the effective date of Public Act
18 96-1372), in a form and manner prescribed by the Department,
19 of the staffing ratios in effect on July 29, 2010 (the
20 effective date of Public Act 96-1372) for both intermediate
21 and skilled care and the number of residents receiving each
22 level of care.

23 (d) (1) (Blank).

24 (2) (Blank).

25 (3) (Blank).

26 (4) (Blank).

(5) Effective January 1, 2014, the minimum staffing ratios shall be increased to 3.8 hours of nursing and personal care each day for a resident needing skilled care and 2.5 hours of nursing and personal care each day for a resident needing intermediate care.

(e) Ninety days after June 14, 2012 (the effective date of Public Act 97-689), a minimum of 25% of nursing and personal care time shall be provided by licensed nurses, with at least 10% of nursing and personal care time provided by registered nurses. These minimum requirements shall remain in effect until an acuity based registered nurse requirement is promulgated by rule concurrent with the adoption of the Resource Utilization Group classification-based payment methodology, as provided in Section 5-5.2 of the Illinois Public Aid Code. Registered nurses and licensed practical nurses employed by a facility in excess of these requirements may be used to satisfy the remaining 75% of the nursing and personal care time requirements. Notwithstanding this subsection, no staffing requirement in statute in effect on June 14, 2012 (the effective date of Public Act 97-689) shall be reduced on account of this subsection.

(f) The Department shall submit proposed rules for adoption by January 1, 2020 establishing a system for determining compliance with minimum staffing set forth in this Section and the requirements of 77 Ill. Adm. Code 300.1230 adjusted for any waivers granted under Section 3-303.1.

1 Compliance shall be determined quarterly by comparing the
2 number of hours provided per resident per day using the
3 Centers for Medicare and Medicaid Services' payroll-based
4 journal and the facility's daily census, broken down by
5 intermediate and skilled care as self-reported by the facility
6 to the Department on a quarterly basis. The Department shall
7 use the quarterly payroll-based journal and the self-reported
8 census to calculate the number of hours provided per resident
9 per day and compare this ratio to the minimum staffing
10 standards required under this Section, as impacted by any
11 waivers granted under Section 3-303.1. Discrepancies between
12 job titles contained in this Section and the payroll-based
13 journal shall be addressed by rule. The manner in which the
14 Department requests payroll-based journal information to be
15 submitted shall align with the federal Centers for Medicare
16 and Medicaid Services' requirements that allow providers to
17 submit the quarterly data in an aggregate manner.

18 (g) Monetary penalties for non-compliance. The Department
19 shall submit proposed rules for adoption by January 1, 2020
20 establishing monetary penalties for facilities not in
21 compliance with minimum staffing standards under this Section.
22 Facilities shall be required to comply with the provisions of
23 this subsection beginning January 1, 2025. No monetary penalty
24 may be issued for noncompliance prior to the revised
25 implementation date, which shall be January 1, 2025. If a
26 facility is found to be noncompliant prior to the revised

1 implementation date, the Department shall provide a written
2 notice identifying the staffing deficiencies and require the
3 facility to provide a sufficiently detailed correction plan
4 that describes proposed and completed actions the facility
5 will take or has taken, including hiring actions, to address
6 the facility's failure to meet the statutory minimum staffing
7 levels. Monetary penalties shall be imposed beginning no later
8 than July 1, 2025, based on data for the quarter beginning
9 January 1, 2025 through March 31, 2025 and quarterly
10 thereafter. Monetary penalties shall be established based on a
11 formula that calculates on a daily basis the cost of wages and
12 benefits for the missing staffing hours. All notices of
13 noncompliance shall include the computations used to determine
14 noncompliance and establishing the variance between minimum
15 staffing ratios and the Department's computations. No monetary
16 penalties shall be imposed unless the variance between a
17 facility's minimum staffing ratios and the Department's
18 computations exceeds 20%. The penalty for the first offense
19 shall be 125% of the cost of wages and benefits for the missing
20 staffing hours. The penalty shall increase to 150% of the cost
21 of wages and benefits for the missing staffing hours for the
22 second offense and 200% the cost of wages and benefits for the
23 missing staffing hours for the third and all subsequent
24 offenses. The penalty shall be imposed regardless of whether
25 the facility has committed other violations of this Act during
26 the same period that the staffing offense occurred. The

1 ~~penalty may not be waived, but the Department shall have the~~
2 ~~discretion to determine the gravity of the violation in~~
3 ~~situations where there is no more than a 10% deviation from the~~
4 ~~staffing requirements and make appropriate adjustments to the~~
5 ~~penalty.~~ The Department is granted discretion to waive the
6 penalty when unforeseen circumstances have occurred that
7 resulted in call-offs of scheduled staff. This provision shall
8 be applied no more than 6 times per quarter. Nothing in this
9 Section diminishes a facility's right to appeal the imposition
10 of a monetary penalty. No facility may appeal a notice of
11 noncompliance issued during the revised implementation period.

12 (Source: P.A. 101-10, eff. 6-5-19; 102-16, eff. 6-17-21;
13 102-1118, eff. 1-18-23.)

14 (210 ILCS 45/3-209) (from Ch. 111 1/2, par. 4153-209)

15 Sec. 3-209. Required posting of information.

16 (a) Every facility shall conspicuously post for display in
17 an area of its offices accessible to residents, employees, and
18 visitors the following:

19 (1) Its current license;

20 (2) A description, provided by the Department, of
21 complaint procedures established under this Act and the
22 name, address, and telephone number of a person authorized
23 by the Department to receive complaints;

24 (3) A copy of any order pertaining to the facility
25 issued by the Department or a court;

(4) A list of the material available for public inspection under Section 3-210;

(5) Phone numbers and websites for rights protection services must be posted in common areas and at the main entrance and provided upon entry and at the request of residents or the resident's representative in accordance with 42 CFR 483.10(j)(4); and

(6) The statement "The Illinois Long-Term Care Ombudsman Program is a free resident advocacy service available to the public.".

In accordance with F574 of the State Operations Manual for Long-Term Care Facilities, the administrator shall post for all residents and at the main entrance the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged in language the resident can understand, which must include notice of the grievance procedure of the facility or program as well as addresses and phone numbers for the Office of Health Care Regulation and the Long-Term Care Ombudsman Program and a website showing the information of a facility's ownership. The facility shall include a link to the Long-Term Care Ombudsman Program's website on the home page of the facility's website.

(b) A facility that has received a notice of violation for a violation with a variance that exceeds 20% of the minimum staffing requirements under Section 3-202.05 shall display, during the period of time the facility is out of compliance, a

1 notice stating in Calibri (body) font and 26-point type in
2 black letters on an 8.5 by 11 inch white paper the following:

3 "Notice Dated:

4 Last quarter, this facility did not ~~does not currently~~
5 meet the minimum staffing ratios required by law. Posted at
6 the direction of the Illinois Department of Public Health.".

7 The notice must be posted, at a minimum, at all publicly used
8 exterior entryways into the facility, inside the main entrance
9 lobby, and next to any registration desk for easily accessible
10 viewing. The notice must also be posted on the main page of the
11 facility's website. The Department shall have the discretion
12 to determine the gravity of any violation and, taking into
13 account mitigating and aggravating circumstances and facts,
14 may reduce the requirement of, and amount of time for, posting
15 the notice.

16 (Source: P.A. 101-10, eff. 6-5-19; 102-1080, eff. 1-1-23.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.