

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

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

3 ➔SECTION 1. The General Assembly hereby finds and declares that:

4 (1) Long-term care facilities have an insufficient number of direct-care staff,
5 including nurse aides, registered nurses, and licensed practical nurses;

6 (2) Approximately thirty-seven states have implemented staffing requirements
7 that are more stringent than the federal staffing standards;

8 (3) Currently, Kentucky follows the federal staffing standards, which require one
9 registered nurse on duty for eight consecutive hours per day for seven days per week and
10 one registered nurse or licensed practical nurse on duty for twenty-four hours per day for
11 seven days a week, but Kentucky does not have staffing requirements in long-term care
12 facilities that go beyond these requirements;

13 (4) Federal staffing standards do not require a minimum level of staff that are
14 nurse aides;

15 (5) Having too few nurse aides compromises patient safety and places residents at
16 risk for health conditions and injuries, including but not limited to bedsores, dehydration,
17 malnutrition, and broken bones from falls;

18 (6) Kentucky can improve the safety of residents of long-term care facilities by
19 requiring a specified staff-to-resident ratio that exceeds the federal minimum staffing
20 standards; and

21 (7) It is in the best interests of the citizens of the Commonwealth for the General
22 Assembly to require long-term care facilities to maintain a specified staff-to-resident ratio
23 that exceeds the federal staffing standards and improves access to better care to patients
24 in need of long-term care services.

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

27 ***(1) The Cabinet for Health and Family Services shall implement a system that shall***

1 include but not be limited to the following staff-to-resident ratios as a condition
2 of licensure or relicensure:

3 (a) On and after July 30, 2018, a long-term care facility shall maintain a ratio
4 of unlicensed nursing personnel to nursing facility residents of no fewer
5 than:

6 1. One (1) nurse aide to nine (9) residents at all times during the day
7 shift;

8 2. One (1) nurse aide to ten (10) residents at all times during the evening
9 shift; and

10 3. One (1) nurse aide to nineteen (19) residents at all times during the
11 night shift;

12 (b) On and after July 30, 2018, a long-term care facility shall maintain a ratio
13 of direct-care registered nurses or licensed practical nurses of no fewer
14 than:

15 1. One (1) nurse to twenty-one (21) residents at all times during the day
16 shift;

17 2. One (1) nurse to twenty-nine (29) residents at all times during the
18 evening shift; and

19 3. One (1) nurse to thirty-two (32) residents at all times during the night
20 shift;

21 (c) On and after July 30, 2018, long-term care facilities with seventy-five (75)
22 or more beds shall employ a registered nurse supervisor during the day and
23 evening shifts, in addition to the staff required under paragraphs (a) and (b)
24 of this subsection;

25 (d) On and after July 30, 2018, long-term care facilities with one hundred (100)
26 or more beds shall employ the following staff, in addition to the staff
27 required under paragraphs (a), (b), and (c) of this subsection:

- 1 1. A registered nurse supervisor during the night shift;
2 2. A full-time assistant director of nursing; and
3 3. A full-time director of education;
4 (e) All minimum staffing ratios in paragraphs (a) and (b) of this subsection
5 shall be computed on the basis of a weekly average. For the purpose of this
6 section, a week is defined as the days Sunday through Saturday; and
7 (f) Registered nurses or licensed practical nurses may be used to comply with
8 the minimum staffing requirements for nurse aides in paragraph (a) of this
9 subsection if:
10 1. The minimum staffing requirements for registered nurses or licensed
11 practical nurses in paragraph (b) of this subsection also are
12 maintained at the facility; and
13 2. The registered nurses or licensed practical nurses are performing the
14 duties of a nurse aide.
15 (2) An employee designated as a member of the nursing staff shall not be required to
16 provide non-nursing services, including but not limited to food preparation,
17 laundry, and maintenance services, except as necessary to maintain a safe and
18 sanitary environment. Persons providing non-nursing services shall not be
19 counted in determining the staffing ratios required by this section.
20 (3) A long-term care facility that has failed to comply with the minimum staffing
21 requirements under this section for two (2) consecutive days shall be prohibited
22 from accepting new admissions until the facility has achieved the required
23 staffing for a period of six (6) consecutive days. Exceptions may be allowed for
24 absences due to weather emergencies or other similar events beyond the control
25 of the facility. A resident of a long-term care facility who returns after an absence
26 from the facility for the purpose of receiving medical care at a separate location
27 or after a leave of absence is not considered a new admission.

1 (4) The staffing ratios required under this section shall be the minimum nursing
 2 staff requirements and shall be adjusted upward to meet the care needs of the
 3 residents. Any modification of staffing ratios based on acuity of care shall be
 4 recorded by the nursing facility for each nursing unit for each day and each shift.
 5 A report shall be made each quarter of the state fiscal year to the Office of
 6 Inspector General within the Cabinet for Health and Family Services on direct-
 7 care staffing based on the acuteness of the residents. These records shall be open
 8 for inspection upon request.

9 (5) State intermediate-care facilities for individuals with an intellectual disability,
 10 institutions for the treatment of mental illness, personal care homes, and family
 11 care homes are exempted from the provisions of this section.

12 (6) The Office of Inspector General within the Cabinet for Health and Family
 13 Services shall enforce compliance with this section.

14 (7) A long-term care facility that violates this section shall be subject to a civil fine of
 15 no more than one thousand dollars (\$1,000) for each day that a staffing
 16 requirement is not maintained.

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

19 (1) The Cabinet for Health and Family Services shall create a seventeen (17)
 20 member Long-Term Care Minimum Staffing Committee to review staffing
 21 requirements in long-term care facilities on an annual basis. Membership shall
 22 consist of the following:

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

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

26 (c) The inspector general or a designee;

27 (d) The executive director of the Alzheimer's Association Kentucky chapter or a

- 1 designee;
- 2 (e) A nursing home administrator as designated by the board of directors of the
- 3 Kentucky Association of Health Care Facilities;
- 4 (f) The president of the Kentucky Hospital Association or a designee;
- 5 (g) Three (3) district long-term care ombudsmen representing diverse areas of
- 6 the state;
- 7 (h) A person designated by the Kentucky chapter of AARP;
- 8 (i) A hospice administrator as designated by the Kentucky Association of
- 9 Hospice and Palliative Care;
- 10 (j) One (1) nurse who is currently employed by a long-term care facility, as
- 11 designated by the Kentucky Nurses Association;
- 12 (k) A nursing home administrator as designated by the board of directors of
- 13 LeadingAge Kentucky or a designee;
- 14 (l) Three (3) members of nursing home families, as designated by the state
- 15 long-term care ombudsman, from diverse areas of the state, and who shall
- 16 not be selected from a nursing home that is represented by a member of the
- 17 committee; and
- 18 (m) The president of Kentuckians for Nursing Home Reform.
- 19 (2) A quorum of the committee shall be nine (9) or more members.
- 20 (3) The Cabinet for Health and Family Services shall provide sufficient staff for the
- 21 committee.
- 22 (4) The chair of the committee shall be chosen from the members identified in
- 23 paragraphs (d) to (m) of subsection (1) of this section. The committee shall meet
- 24 upon call of the chair or upon call of nine (9) members of the committee.
- 25 (5) On or before December 1, 2019, and every December 1 thereafter, the committee
- 26 shall report to the Interim Joint Committee on Health and Welfare the results of
- 27 its annual review of staffing requirements, including any recommended changes

1 *to the requirements.*