

**30:13-18 to 30:13-19**  
**LEGISLATIVE HISTORY CHECKLIST**  
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**LAWS OF:** 2020                   **CHAPTER:** 112  
**NJSA:** 30:13-18 to 30:13-19 (Establishes minimum direct care staff-to-resident ratios in nursing homes.)  
**BILL NO:** S2712                   (Substituted for A4652)  
**SPONSOR(S)** Brian P. Stack and others

**DATE INTRODUCED:** 7/22/2020

**COMMITTEE:**                   **ASSEMBLY:** ---  
**SENATE:** Budget & Appropriations  
Health, Human Services & Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**           **ASSEMBLY:** 9/24/2020  
**SENATE:** 9/24/2020

**DATE OF APPROVAL:** 10/23/2020

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Second Reprint enacted) Yes

**S2712**

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT: ASSEMBLY:** No

**SENATE:** Yes    Budget & Appr.  
Health, Human Services  
& Senior Citizens

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes    9/23/2020  
9/28/2020

**A4652**

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT: ASSEMBLY:** Yes    Appropriations  
Budget

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes 9/21/2020  
9/28/2020

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"More aides coming to nursing." The Star-Ledger, October 24, 2020

RWH

§§1,4 -  
C.30:13-18 to  
30:13-19  
§2 –  
C.26:2H-12.96  
§3 - T&E  
§5 - Note

P.L. 2020, CHAPTER 112, *approved October 23, 2020*  
Senate, No. 2712 (*Second Reprint*)

1 AN ACT concerning staffing requirements for nursing homes and  
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. Notwithstanding any other staffing requirements as may  
8 be established by law, every nursing home as defined in section 2 of  
9 P.L.1976, c.120 (C.30:13-2) or licensed pursuant to P.L.1971, c.136  
10 (C.26:2H-1 et seq.) shall maintain the following minimum  
11 **certified nurse aide** direct care staff<sup>1</sup> -to-resident ratios:

12 (1) one certified nurse aide to every **eight** <sup>2</sup>**six** eight<sup>2</sup>  
13 residents for the day shift;

14 (2) one **certified nurse aide** direct care staff member<sup>1</sup> to  
15 every 10 residents for the evening shift <sup>1</sup>, provided that no fewer  
16 than half of all staff members shall be certified nurse aides, and  
17 each staff member shall be signed in to work as a certified nurse  
18 aide and shall perform certified nurse aide duties<sup>1</sup>; and

19 (3) one **certified nurse aide** direct care staff member<sup>1</sup> to  
20 every **16** 14<sup>1</sup> residents for the night shift <sup>1</sup>, provided that each  
21 direct care staff member shall sign in to work as a certified nurse  
22 aide and perform certified nurse aide duties<sup>1</sup>.

23 b. Upon any expansion of resident census by the nursing home,  
24 the nursing home shall be exempt from any increase in **certified**  
25 nurse aide direct care<sup>1</sup> staffing ratios for a period of nine  
26 consecutive shifts from the date of the expansion of the resident  
27 census.

28 c. (1) The computation of **certified nurse aide**<sup>1</sup> minimum  
29 direct care<sup>1</sup> staffing ratios shall be carried to the hundredth place.

30 (2) If the application of the ratios listed in subsection a. of this  
31 section results in other than a whole number of direct care staff,  
32 including<sup>1</sup> certified nurse aides <sup>1</sup>,<sup>1</sup> for a shift, the number of  
33 required **certified nurse aides** direct care staff members<sup>1</sup> shall be

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted September 14, 2020.

<sup>2</sup>Senate SBA committee amendments adopted September 21, 2020.

1 rounded to the next higher whole number when the resulting ratio,  
2 carried to the hundredth place, is fifty-one hundredths or higher.

3 (3) All computations shall be based on the midnight census for  
4 the day in which the shift begins.

5 d. Nothing in this section shall be construed to affect any  
6 minimum staffing requirements for nursing homes as may be  
7 required by the Commissioner of Health for staff other than <sup>1</sup>direct  
8 care staff, including<sup>1</sup> certified nurse aides, or to restrict the ability  
9 of a nursing home to increase staffing levels, at any time, beyond  
10 the established minimum.

11 <sup>1</sup>e. The minimum direct care staffing ratios required by this  
12 section shall not apply to any pediatric long-term care facility  
13 licensed by the Department of Health.

14 f. As used in this section, "direct care staff member" means  
15 any registered professional nurse, licensed practical nurse, or  
16 certified nurse aide who is acting in accordance with that  
17 individual's authorized scope of practice, and pursuant to  
18 documented employee time schedules.<sup>1</sup>

19

20 <sup>1</sup>2. A long-term care facility licensed pursuant to P.L.1971,  
21 c.136 (C.26:2H-1 et seq.) may employ certified homemaker-home  
22 health aides to work as certified nurse aides, provided that the  
23 homemaker-home health aide is enrolled in a qualified certified  
24 nurse aide program and is working toward certification as a  
25 certified nurse aide.<sup>1</sup>

26

27 <sup>1</sup>3. a. There is established in, but not of, the Department of  
28 Labor and Workforce Development the Special Task Force on  
29 Direct Care Workforce Retention and Recruitment. The purpose of  
30 the task force shall be to:

31 (1) evaluate current direct care staffing levels in the State;

32 (2) examine policies and procedures used to track data on direct  
33 care staffing, including workforce turnover rates in long-term care,  
34 staffing statistics, and vacancy rates;

35 (3) examine the effectiveness of staff retention and recruitment  
36 strategies and initiatives that are in place for direct care staff;

37 (4) identify any existing circumstances that allow for a shortage  
38 or surplus of direct care staff;

39 (5) develop recommendations for legislation, policies, and  
40 short-term and long-term strategies for the retention and recruitment  
41 of direct care staff to ensure an adequate workforce is in place to  
42 provide high-quality, cost-effective health care; and

43 (6) develop recommendations for a waiver process.

44 b. The task force shall take appropriate actions to effectuate its  
45 purposes, including, but not limited to, engaging in the evaluation  
46 of workplace practices and organizational cultures, advancement  
47 opportunities, job supports and incentives, training opportunities,

- 1 wages and benefits, educational initiatives, and certification  
2 reciprocity rules.
- 3 c. The task force shall consist of 16 members, as follows:
- 4 (1) the Commissioner of Labor and Workforce Development,  
5 the Commissioner of Human Services, the Commissioner of Health,  
6 the Secretary of Higher Education, and the New Jersey Long-Term  
7 Care Ombudsman, or their designees, who shall serve ex officio;
- 8 (2) two members of the Senate appointed by the President of the  
9 Senate, which members shall not be from the same political party;
- 10 (3) two members of the General Assembly appointed by the  
11 Speaker of the General Assembly, which members shall not be from  
12 the same political party; and
- 13 (4) seven public members, including:
- 14 (a) one direct care staff professional who has experience as a  
15 certified nurse aide in a not-for-profit nursing facility, one direct  
16 care staff professional who has experience as a certified nurse aide  
17 in a for-profit nursing facility, and one representative of the Health  
18 Care Association of New Jersey, to be appointed by the Governor;
- 19 (b) one representative from a Statewide majority labor  
20 representative in non-profit or for-profit nursing facilities and one  
21 representative of the New Jersey Hospital Association, to be  
22 appointed by the President of the Senate; and
- 23 (c) one representative of the American Association of Retired  
24 Persons and one representative of LeadingAge New Jersey and  
25 Delaware, to be appointed by the Speaker of the General Assembly.
- 26 d. All appointments to the task force shall be made within 120  
27 days after the effective date of this act. Any vacancies in the  
28 membership shall be filled in the same manner as the original  
29 appointments. The members of the task force shall serve without  
30 compensation but may be reimbursed for reasonable expenses  
31 incurred in the performance of their duties, within the limits of  
32 funds made available to the task force for this purpose.
- 33 e. The Department of Labor and Workforce Development shall  
34 provide professional and clerical staff to the task force as necessary  
35 to carry out its duties and effectuate its purposes.
- 36 f. The task force shall organize as soon as practicable, but not  
37 more than 120 days after the effective date of this act. The task  
38 force shall meet and hold hearings at the times and places it may  
39 deem appropriate and necessary to fulfill its duties and effectuate its  
40 purposes under this section. The task force shall hold at least one  
41 public hearing in each of the northern, central, and southern regions  
42 of the State, the purpose of which hearings shall be to meet with  
43 long-term care providers and solicit their input and  
44 recommendations regarding the retention and recruitment of direct  
45 care staff.
- 46 g. No later than one year after the date of the task force's  
47 organizational meeting, the task force shall prepare and submit to  
48 the Governor and, pursuant to section 2 of P.L.1991, c.164

1 (C.52:14-19.1), to the Legislature, a report of its activities under  
2 this section. The report shall identify the task force's findings on  
3 long-term care issues and its recommendations for addressing those  
4 issues.

5 h. The task force shall expire upon submission of the report  
6 required pursuant to subsection g. of this section.<sup>1</sup>

7  
8 <sup>1</sup>~~[2.]~~ 4.<sup>1</sup> Pursuant to the "Administrative Procedure Act,"  
9 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health  
10 shall adopt rules and regulations to effectuate the purposes of this  
11 act.

12  
13 <sup>1</sup>~~[3.]~~ 5.<sup>1</sup> This act shall take effect of the first day of the fourth  
14 month next following the date of enactment, but the Commissioner  
15 of Health may take such anticipatory administrative action in  
16 advance thereof as shall be necessary for the implementation of this  
17 act. <sup>1</sup>Section 3 of this act shall expire upon submission of the task  
18 force's report required pursuant to subsection g. of section 3 of this  
19 act.<sup>1</sup>

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23

24 Establishes minimum direct care staff-to-resident ratios in  
25 nursing homes.

# SENATE, No. 2712

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 20, 2020

**Sponsored by:**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Establishes minimum certified nurse aide-to-resident ratios in nursing homes.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 9/14/2020)

1 AN ACT concerning staffing requirements for nursing homes and  
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. Notwithstanding any other staffing requirements as may  
8 be established by law, every nursing home as defined in section 2 of  
9 P.L.1976, c.120 (C.30:13-2) or licensed pursuant to P.L.1971, c.136  
10 (C.26:2H-1 et seq.) shall maintain the following minimum certified  
11 nurse aide-to-resident ratios:

12 (1) one certified nurse aide to every eight residents for the day  
13 shift;

14 (2) one certified nurse aide to every 10 residents for the evening  
15 shift; and

16 (3) one certified nurse aide to every 16 residents for the night  
17 shift.

18 b. Upon any expansion of resident census by the nursing home,  
19 the nursing home shall be exempt from any increase in certified  
20 nurse aide staffing ratios for a period of nine consecutive shifts  
21 from the date of the expansion of the resident census.

22 c. (1) The computation of certified nurse aide minimum  
23 staffing ratios shall be carried to the hundredth place.

24 (2) If the application of the ratios listed in subsection a. of this  
25 section results in other than a whole number of certified nurse aides  
26 for a shift, the number of required certified nurse aides shall be  
27 rounded to the next higher whole number when the resulting ratio,  
28 carried to the hundredth place, is fifty-one hundredths or higher.

29 (3) All computations shall be based on the midnight census for  
30 the day in which the shift begins.

31 d. Nothing in this section shall be construed to affect any  
32 minimum staffing requirements for nursing homes as may be  
33 required by the Commissioner of Health for staff other than  
34 certified nurse aides, or to restrict the ability of a nursing home to  
35 increase staffing levels, at any time, beyond the established  
36 minimum.

37

38 2. Pursuant to the "Administrative Procedure Act," P.L.1968,  
39 c.410 (C.52:14B-1 et seq.), the Commissioner of Health shall adopt  
40 rules and regulations to effectuate the purposes of this act.

41

42 3. This act shall take effect of the first day of the fourth month  
43 next following the date of enactment, but the Commissioner of  
44 Health may take such anticipatory administrative action in advance  
45 thereof as shall be necessary for the implementation of this act.



STATEMENT

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This bill establishes minimum ratios for the number of certified nurse aides (CNAs) to the number of residents in nursing homes.

Under current regulations, the Department of Health requires nursing homes to meet a minimum number of hours of direct care staff-to-resident time per day.

Under the bill, CNA-to-resident ratios will be as follows:

- (1) one CNA for every eight residents on the day shift;
- (2) one CNA for every 10 residents on the evening shift; and
- (3) one CNA for every 16 residents on the night shift.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of CNAs for nine consecutive shifts.

Nothing in the bill would affect any other minimum staffing requirements as may be mandated by the Commissioner of Health for nursing home staff other than CNAs, and nothing in the bill would prohibit a nursing home from establishing staffing levels above the established minimum.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO  
**SENATE, No. 2712**

with committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 14, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2712.

As amended by the committee, this bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

- (1) one certified nurse aide to every six residents for the day shift;
- (2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and
- (3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill as amended, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The amended bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

Nothing in the bill is to affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of Health for staff other than direct care staff or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum. The staffing ratios required under the bill will not apply to pediatric long-term care facilities.

As amended, the bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled

in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

As amended, the bill establishes in, but not of, the Department of Labor and Workforce Development the “Special Task Force on Direct Care Workforce Retention and Recruitment. The purpose of the task force will be to:

- (1) evaluate current direct care staffing levels in the State;
- (2) examine policies and procedures used to track data on direct care staffing, including workforce turnover rates in long-term care, staffing statistics, and vacancy rates;
- (3) examine the effectiveness of staff retention and recruitment strategies and initiatives that are in place for direct care staff;
- (4) identify any existing circumstances that allow for a shortage or surplus of direct care staff;
- (5) develop recommendations for legislation, policies, and short-term and long-term strategies for the retention and recruitment of direct care staff to ensure an adequate workforce is in place to provide high-quality, cost-effective health care; and
- (6) develop recommendations for a waiver process.

In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

The task force will consist of 16 members, including: the Commissioner of Labor and Workforce Development, the Commissioner of Human Services, the Commissioner of Health, the Secretary of Higher Education, and the New Jersey Long-Term Care Ombudsman, or their designees, who will serve *ex officio*; two members of the Senate representing different political parties and two members of the General Assembly representing different political parties; and seven public members with knowledge and experience related to nursing facilities, to be variously appointed by the Governor, the Senate President, and the Speaker of the General Assembly.

The task force will be required to organize within 120 days after the effective date of the bill and hold at least one public hearing in each of the northern, central, and southern regions of the State, the purpose of which hearings shall be to meet with long-term care providers and solicit their input and recommendations regarding the retention and recruitment of direct care staff.

No later than one year after the date of the task force’s organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to make it more generally applicable to direct care staff, with certain exceptions, and to revise the ratio on the day shift from one certified nurse aide (CNA) for every eight residents to one CNA for every six residents. On the night shift, the ratio is revised from one CNA for every 16 residents to one direct care staff member for every 14 residents. The amendments require direct care staff on evening and night shifts to sign on as CNAs and be prepared to perform CNA duties.

The committee amendments provide that the staffing ratios do not apply to pediatric long-term care facilities.

The committee amendments add a provision to the bill allowing long-term care facilities to employ certified homemaker-home health aides in lieu of CNAs, provided the certified homemaker-home health aide is working towards certification as a CNA.

The committee amendments establish the Special Task Force on Direct Care Workforce Retention and Recruitment, which will be tasked with reviewing various aspects of the direct care workforce and identifying strategies to improve the retention and recruitment of direct care workers. The task force will expire upon producing a report of its findings and recommendations.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 2712

with committee amendments

# STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2020

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2712 (1R).

As amended, this bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

(1) one certified nurse aide to every eight residents for the day shift;

(2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and

(3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill as amended, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The amended bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

Nothing in the bill is to affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of Health for staff other than direct care staff or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum. The staffing ratios required under the bill will not apply to pediatric long-term care facilities.

As amended, the bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified

nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

As amended, the bill establishes in, but not of, the Department of Labor and Workforce Development the “Special Task Force on Direct Care Workforce Retention and Recruitment. The purpose of the task force will be to:

- (1) evaluate current direct care staffing levels in the State;
- (2) examine policies and procedures used to track data on direct care staffing, including workforce turnover rates in long-term care, staffing statistics, and vacancy rates;
- (3) examine the effectiveness of staff retention and recruitment strategies and initiatives that are in place for direct care staff;
- (4) identify any existing circumstances that allow for a shortage or surplus of direct care staff;
- (5) develop recommendations for legislation, policies, and short-term and long-term strategies for the retention and recruitment of direct care staff to ensure an adequate workforce is in place to provide high-quality, cost-effective health care; and
- (6) develop recommendations for a waiver process.

In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

The task force will consist of 16 members, including: the Commissioner of Labor and Workforce Development, the Commissioner of Human Services, the Commissioner of Health, the Secretary of Higher Education, and the New Jersey Long-Term Care Ombudsman, or their designees, who will serve *ex officio*; two members of the Senate representing different political parties and two members of the General Assembly representing different political parties; and seven public members with knowledge and experience related to nursing facilities, to be variously appointed by the Governor, the Senate President, and the Speaker of the General Assembly.

The task force will be required to organize within 120 days after the effective date of the bill and hold at least one public hearing in each of the northern, central, and southern regions of the State, the purpose of which hearings shall be to meet with long-term care providers and solicit their input and recommendations regarding the retention and recruitment of direct care staff.

No later than one year after the date of the task force’s organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

COMMITTEE AMENDMENTS:

The committee amendments change a staff-to-resident ratio that is provided for in the bill from one certified nurse aide to every six residents to one certified nurse aide to every eight residents.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.

Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2712 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 23, 2020

### SUMMARY

- Synopsis:** Establishes minimum direct care staff-to-resident ratios in nursing homes.
- Type of Impact:** Annual impacts on State expenditures and revenues, General Fund; Indeterminate annual impact on expenditures of certain counties.
- Agencies Affected:** Department of Human Services, Department of Consumer Affairs, Department of Health, Department of Military and Veterans Affairs, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Impact</b>	Indeterminate
<b>State Revenue Impact</b>	Indeterminate
<b>County Expenditure Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.
- Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.



## **BILL DESCRIPTION**

This bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

(1) one certified nurse aide to every six residents for the day shift;

(2) one direct care staff member to every ten residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and

(3) one direct care staff member to every fourteen residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

The bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

The bill also establishes the Special Task Force on Direct Care Workforce Retention and Recruitment. In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

No later than one year after the date of the task force’s organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill. Depending on the circumstances of each facility, the bill may require a nursing home to increase its direct care staffing, permit a reduction therein, or cause no change. The bill also directs the Special Task Force on Direct Care Workforce Retention and Recruitment to recommend a process by which nursing homes may secure a waiver for these direct care staffing requirements.

Nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating expenditures in complying with the direct care staffing

requirements of the bill. Currently, the DMAVA operates three facilities. There are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

The OLS also finds that the requirements under this bill will interact with the requirements of P.L.2020, c.89, which implements a minimum wage for direct care staff of long-term care facilities that is \$3 higher than the State's prevailing minimum wage; after 2025, increases in the minimum wage for direct care staff would be limited to an annual cost-of-living increase. Currently, the State's prevailing minimum wage is \$11.00 per hour, with \$1.00 increases for this rate scheduled for January 1 of each year from 2021 through 2024, when the minimum wage reaches \$15.00 per hour. According to the Manatt Health report concerning the State's response to the spread of COVID-19 in nursing homes, certified nurse assistants in New Jersey currently earn an average of \$15.00 per hour, while other nursing home staff earn close to the hourly minimum wage. To the extent that DMAVA- and county-operated nursing facilities are required to increase both the number of, and the hourly wages paid to, direct care staff employed at these facilities, growth in DMAVA and county government expenditures may be compounded.

Annual State expenditures may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. For example, any additional direct care staff hired by nursing homes to provide services to Medicaid recipients would increase the operating costs of these facilities, thereby exerting upward pressure on Medicaid rates to compensate for the additional expenses. Conversely, any decrease in nursing home beds for Medicaid recipients in order to fulfill the direct care staffing ratios of this bill would reduce State Medicaid expenditures, as well as the federal Medicaid matching funds the State receives for such expenditures. While any change in nursing home operating expenditures does not automatically result in corresponding modifications to Medicaid nursing home rates, significant changes would be likely to trigger rate adjustments. Any change in nursing home rates would change annual State Medicaid expenditures and federal Medicaid matching funds. It is also possible that federal Medicare reimbursements to DMAVA for resident care and operational costs may be affected.

The bill may result in an indeterminate recurring State revenue increase due to the possible growth in direct care staff examination and certification fees collected by the Department of Health, which regulates certified nurse aides, and the New Jersey Board of Nursing within the Department of Consumer Affairs, which licenses registered professional nurses, licensed practical nurses, and certified homemaker-home health aides. Any increased revenues realized under the bill would be offset by an indeterminate recurring State expenditure increase attributable to any growth in the administrative demands on the direct care staffing examination and certification programs. The OLS expects any fiscal impact related to the examination and certification to be marginal. The bill may also result in a twelve-month increase in State expenditures incurred by the Department of Labor and Workforce Development in providing professional and clerical staff support to the Special Task Force on Direct Care Workforce Retention and Recruitment, as mandated under the bill.

*Section: Human Services*

*Analyst: Anne H. Cappabianca  
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 2712**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: SEPTEMBER 28, 2020

### SUMMARY

- Synopsis:** Establishes minimum direct care staff-to-resident ratios in nursing homes.
- Type of Impact:** Annual impacts on State expenditures and revenues, General Fund; Indeterminate annual impact on expenditures of certain counties.
- Agencies Affected:** Department of Human Services, Department of Consumer Affairs, Department of Health, Department of Military and Veterans Affairs, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Impact</b>	Indeterminate
<b>State Revenue Impact</b>	Indeterminate
<b>County Expenditure Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.
- Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.

## **BILL DESCRIPTION**

As amended by the committee, this bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

(1) one certified nurse aide to every eight residents for the day shift;

(2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and

(3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

The bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

The bill also establishes the Special Task Force on Direct Care Workforce Retention and Recruitment. In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

No later than one year after the date of the task force’s organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill. Depending on the circumstances of each facility, the bill may require a nursing home to increase its direct care staffing, permit a reduction therein, or cause no change. The bill also directs the Special Task Force on Direct Care Workforce Retention and Recruitment to recommend a process by which nursing homes may secure a waiver for these direct care staffing requirements.

Nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating expenditures in complying with the direct care staffing requirements of the bill. Currently, the DMAVA operates three facilities. There are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

The OLS also finds that the requirements under this bill will interact with the requirements of P.L.2020, c.89, which implements a minimum wage for direct care staff of long-term care facilities that is \$3 higher than the State's prevailing minimum wage; after 2025, increases in the minimum wage for direct care staff would be limited to an annual cost-of-living increase. Currently, the State's prevailing minimum wage is \$11.00 per hour, with \$1.00 increases for this rate scheduled for January 1 of each year from 2021 through 2024, when the minimum wage reaches \$15.00 per hour. According to the Manatt Health report concerning the State's response to the spread of coronavirus 2019 (COVID-19) in nursing homes, certified nurse assistants in New Jersey currently earn an average of \$15.00 per hour, while other nursing home staff earn close to the hourly minimum wage. To the extent that DMAVA- and county-operated nursing facilities are required to increase both the number of, and the hourly wages paid to, direct care staff employed at these facilities, growth in DMAVA and county government expenditures may be compounded.

Annual State expenditures may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. For example, any additional direct care staff hired by nursing homes to provide services to Medicaid recipients would increase the operating costs of these facilities, thereby exerting upward pressure on Medicaid rates to compensate for the additional expenses. Conversely, any decrease in nursing home beds for Medicaid recipients in order to fulfill the direct care staffing ratios of this bill would reduce State Medicaid expenditures, as well as the federal Medicaid matching funds the State receives for such expenditures. While any change in nursing home operating expenditures does not automatically result in corresponding modifications to Medicaid nursing home rates, significant changes would be likely to trigger rate adjustments. Any change in nursing home rates would change annual State Medicaid expenditures and federal Medicaid matching funds. It is also possible that federal Medicare reimbursements to DMAVA for resident care and operational costs may be affected.

The bill may result in an indeterminate recurring State revenue increase due to the possible growth in direct care staff examination and certification fees collected by the Department of Health, which regulates certified nurse aides, and the New Jersey Board of Nursing within the Department of Consumer Affairs, which licenses registered professional nurses, licensed practical nurses, and certified homemaker-home health aides. Any increased revenues realized under the bill would be offset by an indeterminate recurring State expenditure increase attributable to any growth in the administrative demands on the direct care staffing examination and certification programs. The OLS expects any fiscal impact related to the examination and certification to be marginal. The bill may also result in a twelve-month increase in State expenditures incurred by the Department of Labor and Workforce Development in providing professional and clerical staff support to the Special Task Force on Direct Care Workforce Retention and Recruitment, as mandated under the bill.

*Section: Human Services*

*Analyst: Anne H. Cappabianca  
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 4652

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

**Sponsored by:**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman PEDRO MEJIA**

**District 32 (Bergen and Hudson)**

**Co-Sponsored by:**

**Assemblywomen Speight and Jasey**

**SYNOPSIS**

Establishes minimum direct care staff-to-resident ratios in nursing homes.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/21/2020)**



1 AN ACT concerning staffing requirements for nursing homes and  
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. Notwithstanding any other staffing requirements as may be  
8 established by law, every nursing home as defined in section 2 of  
9 P.L.1976, c.120 (C.30:13-2) or licensed pursuant to P.L.1971, c.136  
10 (C.26:2H-1 et seq.) shall maintain the following minimum direct care  
11 staff-to-resident ratios:

12 (1) one certified nurse aide to every six residents for the day shift;

13 (2) one direct care staff member to every 10 residents for the  
14 evening shift, provided that no fewer than half of all staff members  
15 shall be certified nurse aides, and each staff member shall be signed  
16 in to work as a certified nurse aide and shall perform certified nurse  
17 aide duties; and

18 (3) one direct care staff member to every 14 residents for the  
19 night shift, provided that each direct care staff member shall sign in  
20 to work as a certified nurse aide and perform certified nurse aide  
21 duties.

22 b. Upon any expansion of resident census by the nursing home,  
23 the nursing home shall be exempt from any increase in direct care  
24 staffing ratios for a period of nine consecutive shifts from the date of  
25 the expansion of the resident census.

26 c. (1) The computation of minimum direct care staffing ratios  
27 shall be carried to the hundredth place.

28 (2) If the application of the ratios listed in subsection a. of this  
29 section results in other than a whole number of direct care staff,  
30 including certified nurse aides, for a shift, the number of required  
31 direct care staff members shall be rounded to the next higher whole  
32 number when the resulting ratio, carried to the hundredth place, is  
33 fifty-one hundredths or higher.

34 (3) All computations shall be based on the midnight census for  
35 the day in which the shift begins.

36 d. Nothing in this section shall be construed to affect any  
37 minimum staffing requirements for nursing homes as may be  
38 required by the Commissioner of Health for staff other than direct  
39 care staff, including certified nurse aides, or to restrict the ability of  
40 a nursing home to increase staffing levels, at any time, beyond the  
41 established minimum.

42 e. The minimum direct care staffing ratios required by this  
43 section shall not apply to any pediatric long-term care facility  
44 licensed by the Department of Health.

45 f. As used in this section, "direct care staff member" means any  
46 registered professional nurse, licensed practical nurse, or certified  
47 nurse aide who is acting in accordance with that individual's

1 authorized scope of practice, and pursuant to documented employee  
2 time schedules.

3

4 2. A long-term care facility licensed pursuant to P.L.1971, c.136  
5 (C.26:2H-1 et seq.) may employ certified homemaker-home health  
6 aides to work as certified nurse aides, provided that the homemaker-  
7 home health aide is enrolled in a qualified certified nurse aide  
8 program and is working toward certification as a certified nurse aide.

9

10 3. a. There is established in, but not of, the Department of Labor  
11 and Workforce Development the Special Task Force on Direct Care  
12 Workforce Retention and Recruitment. The purpose of the task force  
13 shall be to:

14 (1) evaluate current direct care staffing levels in the State;

15 (2) examine policies and procedures used to track data on direct  
16 care staffing, including workforce turnover rates in long-term care,  
17 staffing statistics, and vacancy rates;

18 (3) examine the effectiveness of staff retention and recruitment  
19 strategies and initiatives that are in place for direct care staff;

20 (4) identify any existing circumstances that allow for a shortage  
21 or surplus of direct care staff;

22 (5) develop recommendations for legislation, policies, and short-  
23 term and long-term strategies for the retention and recruitment of  
24 direct care staff to ensure an adequate workforce is in place to provide  
25 high-quality, cost-effective health care; and

26 (6) develop recommendations for a waiver process.

27 b. The task force shall take appropriate actions to effectuate its  
28 purposes, including, but not limited to, engaging in the evaluation of  
29 workplace practices and organizational cultures, advancement  
30 opportunities, job supports and incentives, training opportunities,  
31 wages and benefits, educational initiatives, and certification  
32 reciprocity rules.

33 c. The task force shall consist of 16 members, as follows:

34 (1) the Commissioner of Labor and Workforce Development, the  
35 Commissioner of Human Services, the Commissioner of Health, the  
36 Secretary of Higher Education, and the New Jersey Long-Term Care  
37 Ombudsman, or their designees, who shall serve ex officio;

38 (2) two members of the Senate appointed by the President of the  
39 Senate, which members shall not be from the same political party;

40 (3) two members of the General Assembly appointed by the  
41 Speaker of the General Assembly, which members shall not be from  
42 the same political party; and

43 (4) seven public members, including:

44 (a) one direct care staff professional who has experience as a  
45 certified nurse aide in a not-for-profit nursing facility, one direct care  
46 staff professional who has experience as a certified nurse aide in a  
47 for-profit nursing facility, and one representative of the Health Care  
48 Association of New Jersey, to be appointed by the Governor;

1 (b) one representative from a Statewide majority labor  
2 representative in non-profit or for-profit nursing facilities and one  
3 representative of the New Jersey Hospital Association, to be  
4 appointed by the President of the Senate; and

5 (c) one representative of the American Association of Retired  
6 Persons and one representative of LeadingAge New Jersey and  
7 Delaware, to be appointed by the Speaker of the General Assembly.

8 d. All appointments to the task force shall be made within 120  
9 days after the effective date of this act. Any vacancies in the  
10 membership shall be filled in the same manner as the original  
11 appointments. The members of the task force shall serve without  
12 compensation but may be reimbursed for reasonable expenses  
13 incurred in the performance of their duties, within the limits of funds  
14 made available to the task force for this purpose.

15 e. The Department of Labor and Workforce Development shall  
16 provide professional and clerical staff to the task force as necessary  
17 to carry out its duties and effectuate its purposes.

18 f. The task force shall organize as soon as practicable, but not  
19 more than 120 days after the effective date of this act. The task force  
20 shall meet and hold hearings at the times and places it may deem  
21 appropriate and necessary to fulfill its duties and effectuate its  
22 purposes under this section. The task force shall hold at least one  
23 public hearing in each of the northern, central, and southern regions  
24 of the State, the purpose of which hearings shall be to meet with long-  
25 term care providers and solicit their input and recommendations  
26 regarding the retention and recruitment of direct care staff.

27 g. No later than one year after the date of the task force's  
28 organizational meeting, the task force shall prepare and submit to the  
29 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
30 19.1), to the Legislature, a report of its activities under this section.  
31 The report shall identify the task force's findings on long-term care  
32 issues and its recommendations for addressing those issues.

33 h. The task force shall expire upon submission of the report  
34 required pursuant to subsection g. of this section.

35  
36 4. Pursuant to the "Administrative Procedure Act," P.L.1968,  
37 c.410 (C.52:14B-1 et seq.), the Commissioner of Health shall adopt  
38 rules and regulations to effectuate the purposes of this act.

39  
40 5. This act shall take effect of the first day of the fourth month  
41 next following the date of enactment, but the Commissioner of Health  
42 may take such anticipatory administrative action in advance thereof  
43 as shall be necessary for the implementation of this act. Section 3 of  
44 this act shall expire upon submission of the task force's report  
45 required pursuant to subsection g. of section 3 of this act.

46  
47  
48  
49

1 This bill requires nursing homes to maintain certain minimum  
2 direct care staff-to-resident ratios. Specifically, the bill will require:

3 (1) one certified nurse aide to every six residents for the day shift;

4 (2) one direct care staff member to every 10 residents for the  
5 evening shift, provided that no fewer than half of all staff members  
6 are to be certified nurse aides, and each staff member will sign in to  
7 work as a certified nurse aide and will perform certified nurse aide  
8 duties; and

9 (3) one direct care staff member to every 14 residents for the  
10 night shift, provided that each direct care staff member is to sign in  
11 to work as a certified nurse aide and perform certified nurse aide  
12 duties.

13 As used in the bill, “direct care staff member” means any  
14 registered professional nurse, licensed practical nurse, or certified  
15 nurse aide who is acting in accordance with that individual’s  
16 authorized scope of practice, and pursuant to documented employee  
17 time schedules.

18 The bill sets forth a methodology for computing the appropriate  
19 ratio, and provides that a nursing home that experiences an increase  
20 in resident census is exempt from increasing the number of direct  
21 care staff members for nine consecutive shifts.

22 Nothing in the bill is to affect any minimum staffing requirements  
23 for nursing homes as may be required by the Commissioner of Health  
24 for staff other than direct care staff or to restrict the ability of a  
25 nursing home to increase staffing levels, at any time, beyond the  
26 established minimum. The staffing ratios required under the bill will  
27 not apply to pediatric long-term care facilities.

28 The bill provides that long-term care facilities may employ  
29 certified homemaker-home health aides to work as certified nurse  
30 aides, provided that the homemaker-home health aide is enrolled in  
31 a qualified certified nurse aide program and is working toward  
32 certification as a certified nurse aide.

33 The bill establishes in, but not of, the Department of Labor and  
34 Workforce Development the “Special Task Force on Direct Care  
35 Workforce Retention and Recruitment. The purpose of the task force  
36 will be to:

37 (1) evaluate current direct care staffing levels in the State;

38 (2) examine policies and procedures used to track data on direct  
39 care staffing, including workforce turnover rates in long-term care,  
40 staffing statistics, and vacancy rates;

41 (3) examine the effectiveness of staff retention and recruitment  
42 strategies and initiatives that are in place for direct care staff;

43 (4) identify any existing circumstances that allow for a shortage  
44 or surplus of direct care staff;

45 (5) develop recommendations for legislation, policies, and short-  
46 term and long-term strategies for the retention and recruitment of  
47 direct care staff to ensure an adequate workforce is in place to provide  
48 high-quality, cost-effective health care; and

49 (6) develop recommendations for a waiver process.

1       In carrying out its work, the task force will evaluate workplace  
2 practices and organizational cultures, advancement opportunities, job  
3 supports and incentives, training opportunities, wages and benefits,  
4 educational initiatives, and certification reciprocity rules.

5       The task force will consist of 16 members, including: the  
6 Commissioner of Labor and Workforce Development, the  
7 Commissioner of Human Services, the Commissioner of Health, the  
8 Secretary of Higher Education, and the New Jersey Long-Term Care  
9 Ombudsman, or their designees, who will serve *ex officio*; two  
10 members of the Senate representing different political parties and two  
11 members of the General Assembly representing different political  
12 parties; and seven public members with knowledge and experience  
13 related to nursing facilities, to be variously appointed by the  
14 Governor, the Senate President, and the Speaker of the General  
15 Assembly.

16       The task force will be required to organize within 120 days after  
17 the effective date of the bill and hold at least one public hearing in  
18 each of the northern, central, and southern regions of the State, the  
19 purpose of which hearings shall be to meet with long-term care  
20 providers and solicit their input and recommendations regarding the  
21 retention and recruitment of direct care staff.

22       No later than one year after the date of the task force's  
23 organizational meeting, it will be required to prepare and submit a  
24 report to the Governor and the Legislature concerning its activities,  
25 findings, and recommendations. The task force will expire upon  
26 submission of its report.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4652

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 17, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4652.

This bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

- (1) one certified nurse aide to every six residents for the day shift;
- (2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and
- (3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

Nothing in the bill is to affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of Health for staff other than direct care staff or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum. The staffing ratios required under the bill will not apply to pediatric long-term care facilities.

The bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

The bill establishes in, but not of, the Department of Labor and Workforce Development the “Special Task Force on Direct Care Workforce Retention and Recruitment. The purpose of the task force will be to:

- (1) evaluate current direct care staffing levels in the State;

(2) examine policies and procedures used to track data on direct care staffing, including workforce turnover rates in long-term care, staffing statistics, and vacancy rates;

(3) examine the effectiveness of staff retention and recruitment strategies and initiatives that are in place for direct care staff;

(4) identify any existing circumstances that allow for a shortage or surplus of direct care staff;

(5) develop recommendations for legislation, policies, and short-term and long-term strategies for the retention and recruitment of direct care staff to ensure an adequate workforce is in place to provide high-quality, cost-effective health care; and

(6) develop recommendations for a waiver process.

In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

The task force will consist of 16 members, including: the Commissioner of Labor and Workforce Development, the Commissioner of Human Services, the Commissioner of Health, the Secretary of Higher Education, and the New Jersey Long-Term Care Ombudsman, or their designees, who will serve *ex officio*; two members of the Senate representing different political parties and two members of the General Assembly representing different political parties; and seven public members with knowledge and experience related to nursing facilities, to be variously appointed by the Governor, the Senate President, and the Speaker of the General Assembly.

The task force will be required to organize within 120 days after the effective date of the bill and hold at least one public hearing in each of the northern, central, and southern regions of the State, the purpose of which hearings shall be to meet with long-term care providers and solicit their input and recommendations regarding the retention and recruitment of direct care staff.

No later than one year after the date of the task force's organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.

Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.



**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4652**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: SEPTEMBER 21, 2020

**SUMMARY**

- Synopsis:** Establishes minimum direct care staff-to-resident ratios in nursing homes.
- Type of Impact:** Annual impacts on State expenditures and revenues, General Fund; Indeterminate impact on expenditures of certain counties.
- Agencies Affected:** Department of Human Services, Department of Consumer Affairs, Department of Health, Department of Military and Veterans Affairs, certain county governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Impact</b>	Indeterminate
<b>State Revenue Impact</b>	Indeterminate
<b>County Expenditure Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.
- Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.

## **BILL DESCRIPTION**

This bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

- (1) one certified nurse aide to every six residents for the day shift;
- (2) one direct care staff member to every ten residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and
- (3) one direct care staff member to every fourteen residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

The bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

The bill establishes the Special Task Force on Direct Care Workforce Retention and Recruitment. In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

No later than one year after the date of the task force's organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill. Depending on the circumstances of each facility, the bill may require a nursing home to increase its direct care staffing, permit a reduction therein, or cause no change. The bill also directs the Special Task Force on Direct Care Workforce Retention and Recruitment to recommend a process by which nursing homes may secure a waiver for these direct care staffing requirements.

Nursing homes operated by the DMAVA and certain county governments may incur indeterminate changes in annual operating expenditures in complying with the direct care staffing

requirements of the bill. Currently, the DMAVA operates three facilities. There are nine county facilities: three in Bergen County; two in Middlesex County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

Annual State expenditures may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. For example, any additional direct care staff hired by nursing homes to provide services to Medicaid recipients would increase the operating costs of these facilities, thereby exerting upward pressure on Medicaid rates to compensate for the additional expenses. Conversely, any decrease in nursing home beds for Medicaid recipients in order to fulfill the direct care staffing ratios of this bill would reduce State Medicaid expenditures, as well as the federal Medicaid matching funds the State receives for such expenditures. While any change in nursing home operating expenditures does not automatically result in corresponding modifications to Medicaid nursing home rates, significant changes would be likely to trigger rate adjustments. Any change in nursing home rates would change annual State Medicaid expenditures and federal Medicaid matching funds. It is also possible that federal Medicare reimbursements to DMAVA for resident care and operational costs may be affected.

The bill may result in an indeterminate recurring State revenue increase due to the possible growth in direct care staff examination and certification fees collected by the Department of Health, which regulates certified nurse aides, and the New Jersey Board of Nursing within the Department of Consumer Affairs, which licenses registered professional nurses, licensed practical nurses, and certified homemaker-home health aides. Any increased revenues realized under the bill would be offset by an indeterminate recurring State expenditure increase attributable to any growth in the administrative demands on the direct care staffing examination and certification programs. The OLS expects any fiscal impact related to the examination and certification to be marginal. The bill may also result in a twelve-month increase in State expenditures incurred by the Department of Labor and Workforce Development in providing professional and clerical staff support to the Special Task Force on Direct Care Workforce Retention and Recruitment, as mandated under the bill.

*Section: Human Services*

*Analyst: Anne H. Cappabianca  
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4652

with committee amendments

# STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Assembly Bill No. 4652, with committee amendments.

As amended by the committee, this bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

(1) one certified nurse aide to every eight residents for the day shift;

(2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and

(3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

Nothing in the bill is to affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of Health for staff other than direct care staff or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum. The staffing ratios required under the bill will not apply to pediatric long-term care facilities.

The bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

The bill establishes in, but not of, the Department of Labor and Workforce Development the “Special Task Force on Direct Care Workforce Retention and Recruitment. The purpose of the task force will be to:

- (1) evaluate current direct care staffing levels in the State;
- (2) examine policies and procedures used to track data on direct care staffing, including workforce turnover rates in long-term care, staffing statistics, and vacancy rates;
- (3) examine the effectiveness of staff retention and recruitment strategies and initiatives that are in place for direct care staff;
- (4) identify any existing circumstances that allow for a shortage or surplus of direct care staff;
- (5) develop recommendations for legislation, policies, and short-term and long-term strategies for the retention and recruitment of direct care staff to ensure an adequate workforce is in place to provide high-quality, cost-effective health care; and
- (6) develop recommendations for a waiver process.

In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

The task force will consist of 16 members, including: the Commissioner of Labor and Workforce Development, the Commissioner of Human Services, the Commissioner of Health, the Secretary of Higher Education, and the New Jersey Long-Term Care Ombudsman, or their designees, who will serve *ex officio*; two members of the Senate representing different political parties and two members of the General Assembly representing different political parties; and seven public members with knowledge and experience related to nursing facilities, to be variously appointed by the Governor, the Senate President, and the Speaker of the General Assembly.

The task force will be required to organize within 120 days after the effective date of the bill and hold at least one public hearing in each of the northern, central, and southern regions of the State, the purpose of which hearings shall be to meet with long-term care providers and solicit their input and recommendations regarding the retention and recruitment of direct care staff.

No later than one year after the date of the task force’s organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

COMMITTEE AMENDMENTS:

The committee amendments change a staff-to-resident ratio that is provided for in the bill from one certified nurse aide to every six residents to one certified nurse aide to every eight residents.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.

Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 4652

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 28, 2020

#### SUMMARY

- Synopsis:** Establishes minimum direct care staff-to-resident ratios in nursing homes.
- Type of Impact:** Annual impacts on State expenditures and revenues, General Fund; Indeterminate annual impact on expenditures of certain counties.
- Agencies Affected:** Department of Human Services, Department of Consumer Affairs, Department of Health, Department of Military and Veterans Affairs, certain county governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Impact</b>	Indeterminate
<b>State Revenue Impact</b>	Indeterminate
<b>County Expenditure Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating costs to comply with the direct care staffing requirements of the bill. The OLS lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill.
- Annual expenditures for the State Medicaid program may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. Any change in State Medicaid expenditures will affect the amount of federal Medicaid matching funds the State receives each year. Federal Medicare reimbursements to DMAVA for resident care and operational costs could potentially be affected as well.

## **BILL DESCRIPTION**

This bill requires nursing homes to maintain certain minimum direct care staff-to-resident ratios. Specifically, the bill will require:

- (1) one certified nurse aide to every eight residents for the day shift;
- (2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and
- (3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

As used in the bill, “direct care staff member” means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual’s authorized scope of practice, and pursuant to documented employee time schedules.

The bill sets forth a methodology for computing the appropriate ratio, and provides that a nursing home that experiences an increase in resident census is exempt from increasing the number of direct care staff members for nine consecutive shifts.

The bill provides that long-term care facilities may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

The bill also establishes the Special Task Force on Direct Care Workforce Retention and Recruitment. In carrying out its work, the task force will evaluate workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

No later than one year after the date of the task force’s organizational meeting, it will be required to prepare and submit a report to the Governor and the Legislature concerning its activities, findings, and recommendations. The task force will expire upon submission of its report.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) lacks access to the facility-level data needed to estimate the operational changes nursing homes may implement in response to enactment of the bill. Depending on the circumstances of each facility, the bill may require a nursing home to increase its direct care staffing, permit a reduction therein, or cause no change. The bill also directs the Special Task Force on Direct Care Workforce Retention and Recruitment to recommend a process by which nursing homes may secure a waiver for these direct care staffing requirements.

Nursing homes operated by the Department of Military and Veterans Affairs (DMAVA) and certain county governments may incur indeterminate changes in annual operating expenditures in complying with the direct care staffing requirements of the bill. Currently, the DMAVA operates three facilities. There are nine county facilities: three in Bergen County; two in Middlesex



County; and one each in Atlantic County, Cape May County, Gloucester County, and Passaic County.

The OLS also finds that the requirements under this bill will interact with the requirements of P.L.2020, c.89, which implements a minimum wage for direct care staff of long-term care facilities that is \$3 higher than the State's prevailing minimum wage; after 2025, increases in the minimum wage for direct care staff would be limited to an annual cost-of-living increase. Currently, the State's prevailing minimum wage is \$11.00 per hour, with \$1.00 increases for this rate scheduled for January 1 of each year from 2021 through 2024, when the minimum wage reaches \$15.00 per hour. According to the Manatt Health report concerning the State's response to the spread of coronavirus 2019 (COVID-19) in nursing homes, certified nurse assistants in New Jersey currently earn an average of \$15.00 per hour, while other nursing home staff earn close to the hourly minimum wage. To the extent that DMAVA- and county-operated nursing facilities are required to increase both the number of, and the hourly wages paid to, direct care staff employed at these facilities, growth in DMAVA and county government expenditures may be compounded.

Annual State expenditures may also change by indeterminate amounts if the bill's direct care staffing requirements result in adjustments to either the rates the State Medicaid program pays nursing homes for Medicaid enrollees or the number of nursing home beds available for Medicaid patients. For example, any additional direct care staff hired by nursing homes to provide services to Medicaid recipients would increase the operating costs of these facilities, thereby exerting upward pressure on Medicaid rates to compensate for the additional expenses. Conversely, any decrease in nursing home beds for Medicaid recipients in order to fulfill the direct care staffing ratios of this bill would reduce State Medicaid expenditures, as well as the federal Medicaid matching funds the State receives for such expenditures. While any change in nursing home operating expenditures does not automatically result in corresponding modifications to Medicaid nursing home rates, significant changes would be likely to trigger rate adjustments. Any change in nursing home rates would change annual State Medicaid expenditures and federal Medicaid matching funds. It is also possible that federal Medicare reimbursements to DMAVA for resident care and operational costs may be affected.

The bill may result in an indeterminate recurring State revenue increase due to the possible growth in direct care staff examination and certification fees collected by the Department of Health, which regulates certified nurse aides, and the New Jersey Board of Nursing within the Department of Consumer Affairs, which licenses registered professional nurses, licensed practical nurses, and certified homemaker-home health aides. Any increased revenues realized under the bill would be offset by an indeterminate recurring State expenditure increase attributable to any growth in the administrative demands on the direct care staffing examination and certification programs. The OLS expects any fiscal impact related to the examination and certification to be marginal. The bill may also result in a 12-month increase in State expenditures incurred by the Department of Labor and Workforce Development in providing professional and clerical staff support to the Special Task Force on Direct Care Workforce Retention and Recruitment, as mandated under the bill.

*Section:*            *Human Services*

*Analyst:*           *Anne H. Cappabianca*  
*Assistant Fiscal Analyst*

*Approved:*        *Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

## Governor Phil Murphy

# Governor Murphy Signs Legislation Requiring Reforms to Long-Term Care Industry

10/23/2020

### *Bills Establish Minimum Staffing Ratios and Require Policies to Prevent Social Isolation of Residents*

**RED BANK** – Governor Phil Murphy today signed two bills (S2712 and S2785) ordering reforms to the long-term care industry. The bills implement recommendations from the Manatt Health Report, released on June 3, 2020.

S2712 requires minimum direct care staff-to-resident ratios in New Jersey long-term care facilities. Additionally, the legislation will establish the Special Task Force on Direct Care Workforce Retention and Recruitment. S2785 requires long-term care facilities to institute policies that prevent social isolation of residents, addressing issues experienced by LTC residents and their families as a result of prohibitions and limitations on visitation during the COVID-19 pandemic.

"Sadly, too many nursing homes are run by companies more interested in making money than protecting patients," **said Governor Murphy**. "These long-sought reforms will help bring accountability to the industry and protect residents, staff, and family members with a loved one living in a long-term care facility. I am proud to have worked with our partners in organized labor, health care advocates, and legislative sponsors to finally implement safe staffing ratios in our nursing homes, as well as other long overdue reforms."

"Staff caring for our most vulnerable residents in long-term care settings are the backbone of these facilities," said **Health Commissioner Judith Persichilli**. "As a nurse, I know there is no more important role than as a caregiver and all of those working in these facilities are healthcare heroes. We have to support this workforce and give them an opportunity to grow and advance in their careers, so it is not only a more rewarding job, but also results in improved care."

Primary sponsors for S2712 include Senators Brian P. Stack, Patrick J. Diegnan, and Joseph F. Vitale, and Assemblymembers Angelica M. Jimenez, Gordon M. Johnson, and Pedro Mejia.

"New Jersey got an F rating and was ranked 43 out of 50 in direct care staffing hours per nursing home resident. These gaping problems have become even more apparent since the start of the COVID-19 pandemic. This is unacceptable and we all know we can do better," **said Senator Brian Stack**. "These are our parents and grandparents and soon, they will be us. This law will ensure that every resident in our nursing homes receives the care and attention we all deserve."

"Increasing the amount of staff in nursing homes will improve the quality of services provided to the elderly in the state," **said Senator Patrick Diegnan**. "Because nursing home patients often need close supervision, increasing the amount of staff will ensure that these senior citizens have the attention and care they need."

"By establishing a task force, we will be able to develop the best strategies for recruiting new direct care staff," **said Senate Health Committee chair, Senator Joseph Vitale**. "It is imperative to develop a viable and robust pipeline of workers in order to meet the requirements of this bill and provide better care to the senior citizens of this state."

"There isn't a more important time than now to act to ensure New Jersey's nursing homes have adequate staffing of direct care professionals for their residents. The onset of Covid-19 quickly illuminated the numerous inefficiencies in



staffing, preparedness, and medical equipment in our nursing homes. They were dangerously unprepared for the rapid response needed to address the demands of a public health crisis,” said **Assemblymembers Angelica Jimenez, Gordon Johnson, and Pedro Mejia in a joint statement**. “Nursing home care has, for far too long, been under scrutiny in the state and it’s time now to address the concerns. A mandatory minimum for staff-to-patient ratios in these facilities will be critical to fixing the long term healthcare system in the state.”

S2712 establishes minimum direct care staff-to-resident ratios in nursing homes. The Manatt Report cited longstanding staffing shortages as one of the systemic issues that exacerbated the industry’s COVID-19-response challenges. Specifically, the law requires:

- One CNA to every eight residents for the day shift;
- One direct care staff member (RN, LPN, or CNA) to every 10 residents for the evening shift; and
- One direct care staff member (RN, LPN, or CNA) to every 14 residents for the night shift.

The bill also establishes the Special Task Force on Direct Care Workforce Retention and Recruitment, which will evaluate job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules. The Task Force will be required to submit a report to the Governor and the Legislature within one year of its first meeting, which must occur within 180 days of signing.

Primary sponsors for S2785 include Senators Vin Gopal and Nellie Pou, and Assemblymembers Valerie Vainieri Huttie, Angela V. McKnight, and Carol A. Murphy.

“One of the debilitating effects of the spread of the coronavirus has been the heightened sense of isolation it has placed on residents of long-term care facilities. There is little doubt that the limits on physical visitation have had a harmful effect on residents’ mental and physical well-being,” **said Senator Vin Gopal**. “Many residents in these facilities are already susceptible to loneliness and potential isolation. Facilities should act now to implement plans to prevent such isolation in the event of a public health emergency and be able to mitigate its worst effects on both residents and their loved ones.”

“Long term care facilities can be lonely places for our elderly residents. The limitations we saw on visitation early on in the pandemic, while in the best interest of patients, had an immense impact on their mental wellbeing,” **said Senator Nellie Pou**. “This program will help to ensure our facilities are better equipped to prevent feelings of social isolation in the event of future public health emergencies that require them to go into lockdown to prevent the spread of illness.”

“For months at the start of the pandemic, family and friends were not allowed to visit their loved ones in long-term care facilities to mitigate the spread of COVID-19,” **said Assemblywoman Valerie Vainieri Huttie, chair of the Assembly Aging and Senior Services Committee**. “Though this precaution was intended to protect the physical health of residents, for many the sustained social isolation took a toll on their mental health. Eight months into this crisis, we’ve learned social distancing doesn’t have to mean isolation or loneliness. Whether it be a natural disaster or a public health crisis, we must ensure that residents in these facilities can stay connected to their families and loved ones remotely when in-person visits are not feasible.”

“Even before COVID-19, many residents in long-term care felt socially isolated and lonely,” **said Assemblywoman Angela McKnight**. “The pandemic has exacerbated this problem. Most of us at one point or another have leaned on family and friends for support in these uncertain times. We must make sure those in long-term care - many of them elderly or disabled - are able to stay in touch with their support systems.”

“Mental health and physical health are equally important. During COVID-19 and beyond, the mental health of long-term care residents must be a priority,” **said Assemblywoman Carol Murphy**. “Now more than ever, we must keep residents connected to their families, both for the sake of their mental health and to ensure families are able to advocate for their loved ones.”

The bill requires long-term care facilities, as a condition of licensure, to implement policies to prevent social isolation of residents. The bill is intended to address the tremendous strain experienced by long-term care residents and families of residents as a result of the prohibition of and limitation on visitation during the pandemic. The bill requires facilities to create social isolation prevention policies to authorize residents of the facility to engage in person contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, except when prohibited, restricted, or limited. The bill further



requires policies to consider means to promote virtual visitation and resident recreational activities during periods where in-person engagement is limited/prohibited, and requires facilities to maintain the appropriate technology to implement that mandate.

“Today New Jersey enacts one of the most meaningful pieces of nursing home legislation our state has seen in decades,” **said Milly Silva, Executive Vice President of 1199SEIU United Healthcare Workers East.** “This law will fundamentally improve standards of quality care in nursing homes by ensuring that facilities hire sufficient frontline staff to meet the basic needs of residents. We commend Gov. Murphy and our legislative leadership for taking this step which establishes New Jersey as a national model for compassionate staffing levels in nursing homes.”

“Today I care for nearly twice as many residents as I did when I became a CNA seventeen years ago,” **said Margaret Boyce, certified nursing assistant and member of 1199SEIU.** “This law means that I will again be able to give my residents the type of care that they deserve. After all they have gone through during this pandemic, no nursing home resident should ever again have to miss a meal, or a shower, or feel lonely because there’s no one available to assist them.”

On behalf of the members I represent, I applaud Governor Murphy and the NJ Legislature for their support of long term care patients and workers. This has been a very difficult time for patients and their caregivers at NJ nursing homes,” **said Susan Cleary, President of District 1199J, National Union of Hospital and Health Care Employees.** “It is my sincere hope as President of District 1199J, representing 10,000 workers which include 35 long term care facilities, that as a State we will protect our most vulnerable citizens, recognize and compensate those who provide quality and compassionate care, and continue to work toward policies that keep our long term care community safe and strong.

## Governor Phil Murphy

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Governor Phil Murphy

## This Week in New Jersey: October 23, 2020

10/23/2020



### Governor Murphy Nominates Dr. Angelica Allen-McMillan as Commissioner of the New Jersey Department of Education

Governor Phil Murphy announced his nomination of Dr. Angelica Allen-McMillan, Ed.D., as the next Commissioner of the New Jersey Department of Education.

"From day one, I pledged to select a Commissioner of Education with experience in public education. We fulfilled that promise through the nomination of Dr. Repollet, and maintain that promise today," said Governor Murphy. "A product of New Jersey's public schools, Angelica has worked at all levels of education and knows exactly what our teachers and students need to succeed. She is an exemplary educator and I'm confident she is the leader we need to carry our school communities through the remainder of this pandemic and beyond."



"I'd also like to thank outgoing Interim Commissioner Kevin Dehmer for his tireless service during an unprecedented time for the Department and our state," continued Governor Murphy. "He'll continue to serve the DOE as CFO and Assistant Commissioner and will work alongside Angelica to advance an agenda that puts our students' health, achievement, and well-being first, and maintains our state's reputation as home to the nation's best public education system."

"I am a proud product of New Jersey's magnificent public education system and I have dedicated my career to ensuring that the children of this state continue to get the type of education I received," said incoming Acting DOE Commissioner Dr. Angelica Allen-McMillan. "I am extremely proud the Governor has put his faith in me to continue New Jersey's tradition of educational excellence."

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## Governor Murphy Signs Sentencing Reform Legislation

Governor Phil Murphy signed three bills (A2370, A4371, and A4373) which together establish a compassionate release program for certain inmates, require a cost savings study of compassionate release programs and elimination of mandatory minimum terms, establish a "Corrections Rehabilitation and Crime Prevention Fund," and add a defendant's youth to the list of permissible mitigating factors a court may consider when sentencing a defendant.

"Our administration has been committed to criminal justice reform since day one, and we have taken many steps to



address the wide disparities present in our justice system,” said Governor Murphy. “I am proud to sign these three bills today, which will further our commitment to sentencing reform.”

“However, it is imperative that we also enact existing legislation that implements the recommendations of the Criminal Sentencing and Disposition Commission to eliminate certain mandatory minimum terms of imprisonment for offenses specified by the Commission, allow the mandatory minimum reforms to apply retroactively, and allow for the resentencing of some inmates. We have made great progress on remaking our criminal justice system into one that reforms people instead of breaking them, but there is still much to be done. I look forward to working with advocates and our partners in the Legislature to see through the adoption of the rest of this critical bill package.”

“Today the Governor has signed three important bills into law,” said former Chief Justice Deborah Poritz, Chair of the Criminal Sentencing and Disposition Commission. “I urge the swift enactment of the Commission’s other recommendations, including the elimination of mandatory minimums as specifically identified by the Commission in its initial report.”

“The New Jersey Department of Corrections is proud to be part of the bi-partisan Criminal Sentencing Disposition Committee and seeing the committee’s recommendations to right-size disparities in the judicial system come to fruition,” said New Jersey Department of Corrections Commissioner Marcus O. Hicks, Esq. “Together with my committee members, we will continue to explore opportunities that support the well-being of all those in state custody while balancing public safety.”

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## **Governor Murphy Signs Legislation Requiring Public Health Emergency Credits To Be Awarded to Certain Inmates and Parolees During a Public Health Emergency**

Governor Phil Murphy signed legislation (S2519) which requires public health emergency credits to be awarded to certain inmates and parolees during a public health emergency. The legislation includes certain exclusions and prohibits inmates or parolees to contact their victims upon their release.

“Since the beginning of the COVID-19 pandemic, our administration has worked tirelessly to save as many lives as possible and to stem the spread of COVID-19,” said Governor Murphy. “Since March, the population in State correctional facilities has decreased by nearly 3,000 people (16%), including more than 1,200 people who were released under Executive Order 124. This dramatic reduction has allowed for critical social distancing as part of the fight against COVID-19.

“Thanks to the efforts of our correctional leadership, the COVID-19 positivity rate among our incarcerated population is at an impressive low of 0.09%. But the threat of COVID-19 is still present,” continued Governor Murphy. “Reducing our prison population will undoubtedly further our mission to combat COVID-19. This law further reduces the prison population to allow for even more social distancing.”

“The New Jersey Department of Corrections has taken numerous steps, grounded in public health guidance, to ensure staff safety and the safety of those in the state’s custody during this unprecedented pandemic,” said New Jersey Department of Corrections Commissioner Marcus O. Hicks, Esq. “These measures, including E.O. 124 providing for the release of certain offenders, combined with paroles and individuals completing their sentences, has decreased our



population by more than 2,800. The Department will continue to lend support and take action in furtherance of public health and public safety.”

“The State Parole Board recognizes Governor Murphy and the New Jersey State Legislature for their commitment in creating a safe, healthy, and sustainable parolee release program,” said New Jersey State Parole Board Chairman Samuel J. Plumeri, Jr. “This law takes into consideration those serving their sentences in our state prisons as well as those within the communities that they will return to.”

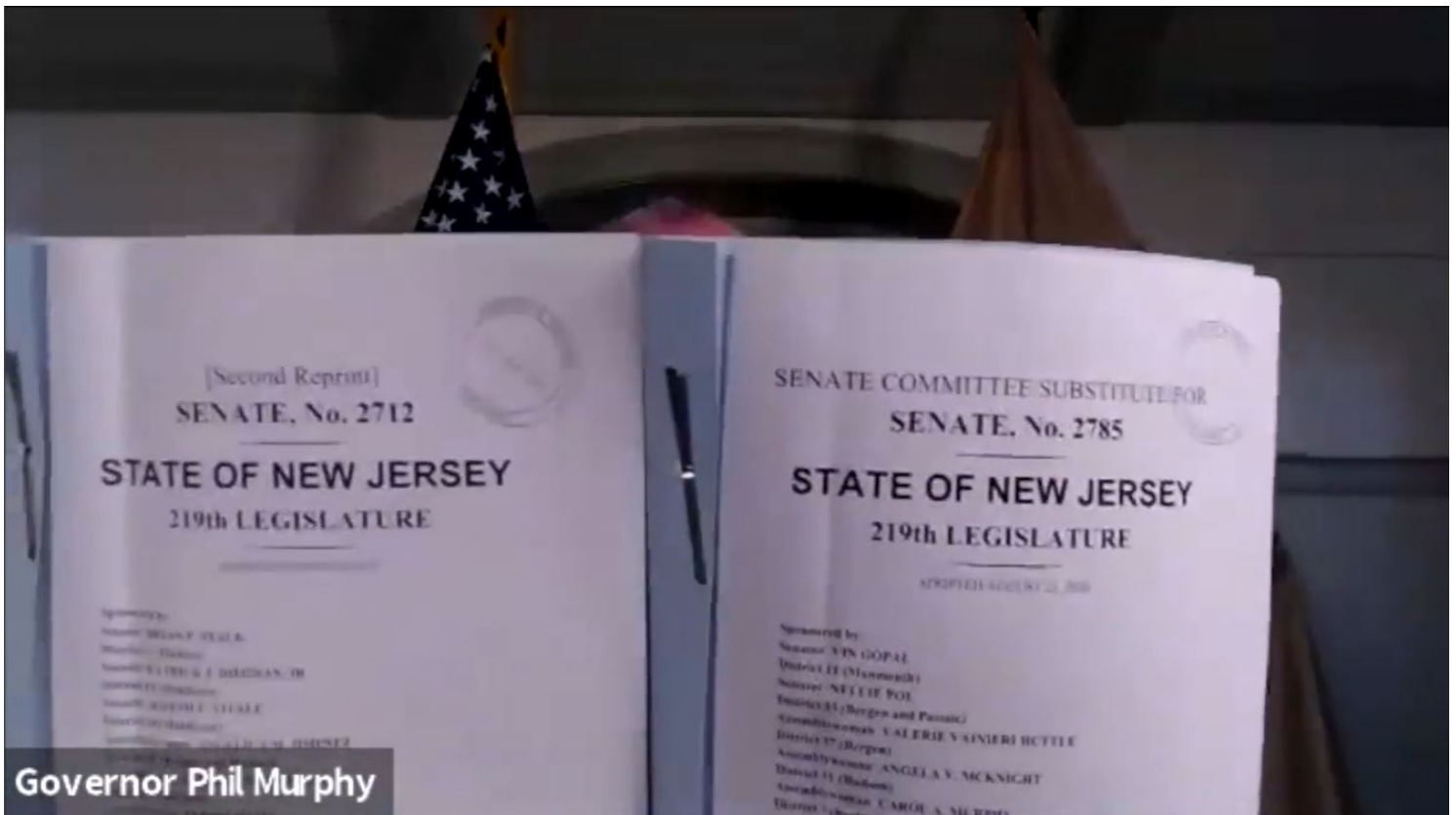
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## Governor Murphy Signs Legislation Requiring Reforms to Long-Term Care Industry

Governor Phil Murphy signed two bills (S2712 and S2785) ordering reforms to the long-term care industry. The bills implement recommendations from the Manatt Health Report, released on June 3, 2020.

S2712 requires minimum direct care staff-to-resident ratios in New Jersey long-term care facilities. Additionally, the legislation will establish the Special Task Force on Direct Care Workforce Retention and Recruitment. S2785 requires long-term care facilities to institute policies that prevent social isolation of residents, addressing issues experienced by LTC residents and their families as a result of prohibitions and limitations on visitation during the COVID-19 pandemic.



"Sadly, too many nursing homes are run by companies more interested in making money than protecting patients," said Governor Murphy. "These long-sought reforms will help bring accountability to the industry and protect residents, staff, and family members with a loved one living in a long-term care facility. I am proud to have worked with our partners in organized labor, health care advocates, and legislative sponsors to finally implement safe staffing ratios in our nursing homes, as well as other long overdue reforms."

"Staff caring for our most vulnerable residents in long-term care settings are the backbone of these facilities," said Health Commissioner Judith Persichilli. "As a nurse, I know there is no more important role than as a caregiver and all of those working in these facilities are healthcare heroes. We have to support this workforce and give them an opportunity to grow and advance in their careers, so it is not only a more rewarding job, but also results in improved care."

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## Governor Murphy, Congressman Norcross Announce New Workforce Development Programs from Coronavirus Relief Fund

Governor Phil Murphy and Congressman Donald Norcross announced \$14 million in additional Coronavirus Aid Relief and Economic Security (CARES) Act funding to develop workforce development programs. The programs are designed to help businesses impacted by COVID-19 replenish their workforce and help jobless residents learn new skills that lead to successful reemployment.

"As this pandemic continues to threaten our public health, we must work to ensure that a stronger, fairer, and more resilient New Jersey emerges on the other side of COVID-19," said Governor Murphy. "With today's announcement, we are





investing in opportunities for job training in our workforce that will reignite and grow our economy.”

“The Coronavirus pandemic has upended our economy, but we will recover by working together,” said Congressman Norcross. “Using federal CARES Act funding, New Jersey is helping workers and businesses get back on their feet. These workforce programs will help employers provide skill-building opportunities and on the job training, connecting New Jerseyans with the services they need to get the job they deserve.”

“The need is everywhere,” said Labor Commissioner Robert Asaro-Angelo. “We all know of businesses that are struggling or have closed, and workers who have been laid off or have had their hours drastically reduced as a result of the pandemic. We are grateful for the opportunity to use these funds to turn lives around and help our state recover economically.”

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