

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

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

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

(1) As used in Sections 1 and 2 of this Act, "long-term care facility" means those facilities defined by the cabinet to be family care homes, personal care homes, and nursing homes.

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

(a) On and after June 30, 2011, a long-term care facility shall maintain a ratio of unlicensed nursing personnel to nursing facility residents of no fewer than:

1. One (1) nurse aide to five (5) residents during the day shift;
2. One (1) nurse aide to ten (10) residents during an evening shift; and
3. One (1) nurse aide to fifteen (15) residents during the night shift;

(b) The minimum staffing ratio in paragraph (a) of this subsection shall be computed on the basis of a weekly average. For the purpose of this section, a "week" means the days Sunday through Saturday; and

(c) Registered nurses or licensed practical nurses may be used to comply with the minimum staffing requirements for nurse aides in paragraph (a) of this subsection if the registered nurses or licensed practical nurses are performing the duties of a nurse aide.

(3) An employee designated as a member of the nursing staff shall not be required to provide nonnursing services, including but not limited to food preparation, laundry, and maintenance services, except as necessary to maintain a safe and sanitary environment. Persons providing nonnursing services shall not be

counted in determining the staffing ratios required by this section.

- (4) A long-term care facility that has failed to comply with the minimum staffing requirements under this section for two (2) consecutive days shall be prohibited from accepting new admissions until the facility has achieved the required staffing for a period of six (6) consecutive days. Exceptions may be allowed for absences due to weather emergencies or other similar events beyond the control of the facility. A resident of a long-term care facility who returns after an absence from the facility for the purpose of receiving medical care at a separate location or after a leave of absence is not considered a new admission.
- (5) The staffing ratios required under this section shall be the minimum nursing staff requirements and shall be adjusted upwards to meet the care needs of the residents. Any modification of staffing ratios based on acuity of care shall be recorded by the nursing facility for each nursing unit for each day and each shift. A report shall be made each quarter of the state fiscal year to the Office of Inspector General within the Cabinet for Health and Family Services on direct-care staffing based on the acuteness of the residents. These records shall be open for inspection upon request.
- (6) State intermediate-care facilities for the mentally retarded, institutions for the treatment of mental illness, personal care homes, and family care homes are exempted from the provisions of this section.
- (7) The Office of Inspector General within the Cabinet for Health and Family Services shall enforce compliance with this section.
- (8) A long-term care facility that violates this section shall be subject to a civil fine of no more than one thousand dollars (\$1,000) for each day that a staffing requirement is not maintained.

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

(1) The Cabinet for Health and Family Services shall create a sixteen (16) member Long-Term Care Minimum Staffing Committee to review staffing requirements in long-term care facilities on an annual basis. Membership shall consist of the following:

- (a) The commissioner of the Department for Medicaid Services or a designee;
- (b) The commissioner of the Department for Aging and Independent Living or a designee;
- (c) The inspector general or a designee;
- (d) The executive director of the Alzheimer's Association Kentucky chapter or a designee;
- (e) A nursing home administrator as designated by the board of directors of the Kentucky Association of Health Care Facilities;
- (f) Three (3) district long-term care ombudsmen representing diverse areas of the state;
- (g) A person designated by the Kentucky chapter of the American Association of Retired Persons;
- (h) A hospice administrator as designated by the Kentucky Association of Hospice and Palliative Care;
- (i) One (1) nurse who is currently employed by a long-term care facility, as designated by the Kentucky Nurses Association;
- (j) A nursing home administrator as designated by the board of directors of the Kentucky Association of Homes and Services for the Aging or a designee;
- (k) Two (2) members of nursing home families, as designated by the state long-term care ombudsman, from diverse areas of the state, and who shall not be selected from a nursing home that is represented by a member of the committee;
- (l) The president of Kentuckians for Nursing Home Reform; and

(m) A representative of Kentucky Initiative for Quality Nursing Home Standards.

(2) A quorum of the committee shall be nine (9) or more members.

(3) The Cabinet for Health and Family Services shall provide sufficient staff for the committee.

(4) The chair of the committee shall be chosen from the members identified in paragraphs (d) to (m) of subsection (1) of this section. The committee shall meet upon call of the chair or upon call of nine (9) members of the committee.

(5) On or before December 1, 2012, and every December 1 thereafter, the committee shall report to the Interim Joint Committee on Health and Welfare the results of its annual review of staffing requirements, including any recommended changes to the requirements.