

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of Senate Bill No. 494

"TO SET MINIMUM STAFFING REQUIREMENTS AND PROCEDURES IN ARKANSAS
NURSING HOMES AND NURSING FACILITIES."

Amendment No. 3 to Senate Bill No. 494.

Amend Senate Bill No. 494 as engrossed, s2/22/01:

Page 2, delete lines 7 through 12 and substitute the following:

"(5)(A) "Direct-care staff" means any licensed or certified nursing staff who provides direct, hands-on care to residents in a nursing facility.

(B) "Direct-care staff" shall not include therapy personnel, or personnel listed in § 20-10-1404.

(6) "Midnight census" means the number of patients occupying nursing home beds in a nursing facility at midnight of each day."

AND

Page 2, delete lines 25 through 30 and substitute the following:

"(c) If a facility varies shift hours from the shift hours listed in § 20-10-1401, the facility shall meet the staffing requirements for the shift hours as listed in § 20-10-1401."

AND

Page 5, delete line 8 and substitute the following:

"personnel per shift for direct-care staff.

(g) All computations shall be based on the midnight census for the day in which the shift or shifts begin."

AND

Delete SECTION 5 in its entirety and substitute the following:

"SECTION 5. Arkansas Code 20-10-1407 is amended to read as follows:
20-10-1407. Report.

(a)(1) ~~Every three (3) months~~ By the fifth (5th) day of each month, each nursing facility or nursing home shall submit a written report of all shifts which fail to meet the minimum staffing requirements of this subchapter during the preceding month to the Office of Long-Term Care. A

~~pattern of failure to comply with the provisions of this subchapter is a Class B violation in accordance with § 20-10-206.~~

(2) Upon determination by the office that a pattern of failure to comply with the provisions of this subchapter has occurred, the nursing facility or nursing home shall, in addition to the requirements set forth in subdivision (a)(1) of this section, submit to the office on a monthly basis a report stating the nursing staff-to-resident ratios for each shift.

(3) Each nursing facility shall also submit copies of all daily staffing logs for the same months for any reports required under subdivision (a)(1) or subsection (b) of this section.

~~(b) If at the end of three (3) months after the office has found the nursing facility or nursing home to be out of compliance, the office, in addition to the civil monetary penalties which have accrued any other penalties or sanctions imposed, shall, pursuant to § 20-10-1408, prohibit the facility from admitting new residents until the facility is in compliance.~~

(c) The failure to meet the requirement regarding the posting of current staff-resident ratios set forth in § 20-10-1406, or the failure to provide staffing reports, logs or documentation to the Office of Long-Term Care or the Division of Medical Services, is a Class C violation in accordance with § 20-10-206.

(d) "Pattern of failure" means that a facility did not meet the minimum staffing requirements of this subchapter for more than twenty percent (20%) of the total number of shifts for any one (1) month.

(e) A facility may regain compliance after a pattern of failure by establishing that the facility met the minimum staffing requirements of this subchapter for at least eighty percent (80%) of the shifts during the preceding month.

(f)(1) The Division of Medical Services is authorized to perform audits, including random audits, of nursing facilities or nursing homes to determine and ensure compliance with the requirements of this subchapter.

(2) Facilities shall provide staffing reports, logs or other documentation upon request of the Division of Medical Services."

AND

Delete SECTION 6 in its entirety and substitute the following:

"SECTION 6. Arkansas Code 20-10-1408 is amended to read as follows:

20-10-1408. ~~Regulations~~ Penalties.

~~The Office of Long Term Care shall determine the definition of day shift, evening shift, night shift, and pattern of failure by regulation.~~

Upon a determination of a pattern of failure of a facility by the Office of Long Term Care, the following penalties shall be applied to the facility:

(1) When the pattern of failure is more than twenty percent (20%) but less than twenty-five percent (25%) of the total number of shifts for any one month, the facility shall be assessed a fine of two thousand five hundred dollars (\$2,500).

(2) When the pattern of failure is twenty-five percent (25%) or higher, but less than thirty percent (30%), of the total number of shifts for any one (1) month, the facility:

(A) Shall be assessed a fine of five thousand dollars (\$5,000); and

(B) Shall be prohibited from admitting new residents beginning the first day of the month following identification of the pattern of failure by the Office of Long Term Care and continuing until the first day of the month after the Office of Long Term Care determines that the facility has regained compliance.

(3) When the pattern of failure is thirty percent (30%) or higher of the total number of shifts for any one (1) month in a three (3) month reporting period, the facility:

(A) Shall be assessed a fine of seven thousand five hundred dollars (\$7,500); and (B) Shall be prohibited from admitting new residents beginning the first day of the month following identification of the pattern of failure by the Office of Long Term Care and continuing until the first day of the month after the Office of Long Term Care determines that the facility has regained compliance.

(4) If, after five (5) days notice from the Office of Long Term Care of the imposition of a denial of new admissions, a facility admits new residents during a period in which the facility is prohibited from admitting new residents, the facility shall be assessed a fine of twenty-five thousand dollars (\$25,000) per new resident admitted.

(5) The penalties stated in this subchapter are supplemental to any provisions in state or federal laws or regulations.

(6) Appeals from the imposition of any monetary penalty under this subchapter shall be made pursuant to § 20-10-208.

(7) Appeals from the imposition of a denial of new admissions under this subchapter shall be made pursuant to § 20-10-303.

(8)(A) When residents are relocated from facilities due to natural disaster or as a result of state or federal action, the Department of Human Services may waive some or all of the provisions of §§ 20-10-1403 and 20-10-1404 for facilities to which the residents are relocated.

(B) Any waiver shall be limited to no more than three (3) months from the date of transfer."

AND

Page 8, delete line 28 and substitute the following:

"(a) The staffing standards as set forth in ~~§§~~ § 20-10-1403 and 20-10-1404"

AND

Page 9, delete lines 4 through 7 and substitute the following:

"insufficient or unable to pay for the minimum staffing standards under § 20-10-1403, the Office of Long Term Care may, by regulation, modify the requirements of § 20-10-1403 to ensure minimum staffing"

AND

Page 9, delete lines 13 through 18 in their entirety

AND

Page 9, delete "(3)" and substitute "(2)"

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Brown

MF/RCK

RCK963

Secretary