

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1847

4
5 By: Representative Wallis

For An Act To Be Entitled

8 "AN ACT TO REQUIRE LONG-TERM CARE NURSING FACILITIES TO
9 MAINTAIN SAFE STAFFING LEVELS IN ORDER TO PROTECT THE
10 HEALTH AND SAFETY OF RESIDENTS AND EMPLOYEES; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "AN ACT TO REQUIRE LONG-TERM CARE
15 NURSING FACILITIES TO MAINTAIN SAFE
16 STAFFING LEVELS IN ORDER TO PROTECT THE
17 HEALTH AND SAFETY OF RESIDENTS AND
18 EMPLOYEES.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Minimum staffing standards for unlicensed nursing personnel.

23 (a) The Department of Human Services shall not issue or renew a license
24 of a long-term care nursing facility unless that facility employs nursing
25 personnel sufficient in number to provide continuous twenty-four (24) hour
26 nursing care and service sufficient to meet the needs of each resident in the
27 nursing facility.

28 (b) A long-term care nursing facility shall maintain a ratio of
29 residents to unlicensed nursing personnel of no more than:

- 30 (1) eight (8) to one (1) during a morning shift;
31 (2) ten (10) to one (1) during an afternoon shift; and
32 (3) fifteen (15) to one (1) during a nighttime shift.

33 (c) An employee designated as a member of the nursing staff shall not
34 provide services such as food preparation, housekeeping, laundry or
35 maintenance services. A person employed to provide such services shall not
36 provide nursing care to residents and shall not be counted in determining the

1 ratios in Section 1(b).

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3 SECTION 2. Public right to staffing information.

4 A long-term care nursing facility shall post for each wing and/or floor
5 of the facility and for each shift the current number of licensed and
6 unlicensed nursing staff directly responsible for resident care and the
7 current ratios of residents to staff, which show separately the number of
8 residents to licensed nursing staff and the number of residents to unlicensed
9 nursing staff. In addition such information shall be posted for the most
10 recently concluded cost reporting period in the form of average daily staffing
11 ratios for that period. This information must be posted in a manner which is
12 visible and accessible to all residents, their families, caregivers and
13 potential consumers in each facility.

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15 SECTION 3. Enforcement.

16 (a) The Department of Human Services shall impose a civil monetary
17 penalty upon any facility that fails to meet the staffing requirements set
18 forth in Section 1. The penalty shall be imposed for each day on which the
19 failure occurs.

20 (b) The amount of the penalty in subsection (a) shall be determined as
21 follows:

22 (1) Upper range, three thousand fifty dollars (\$3,050) to ten
23 thousand dollars (\$10,000). Penalties in the range of three thousand fifty
24 dollars (\$3,050) to ten thousand dollars (\$10,000) per day shall be imposed
25 for deficiencies in staffing which constitute immediate jeopardy to resident
26 health or safety and for repeat deficiencies when a monetary penalty has been
27 previously imposed.

28 (2) Lower range, fifty dollars (\$50) to three thousand dollars
29 (\$3,000). Penalties in the range of fifty dollars (\$50) to three thousand
30 dollars (\$3,000) per day shall be imposed for deficiencies in staffing which
31 do not constitute immediate jeopardy to resident health or safety.

32 (c) In addition to the penalty set forth in subsections (a) and (b), in
33 any action brought by on behalf of a resident of the facility, his heirs,
34 and/or assigns, for intentional or negligent infliction of harm or lack of
35 adequate care, it shall be established that a failure to meet the staffing
36 requirements of Section 1 was a contributory cause of any injury sustained by

1 a resident.

2 (d) The Department of Human Services shall impose a civil monetary
3 penalty upon any facility that fails to meet the posting requirements set
4 forth in Section 2. The penalty shall be in the amount of one hundred dollars
5 (\$100) and shall be imposed for each day upon which the facility failed to
6 meet fully the posting requirements.

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8 SECTION 4. All provisions of this act of a general and permanent
9 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
10 Code Revision Commission shall incorporate the same in the Code.

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12 SECTION 5. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

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18 SECTION 6. All laws and parts of laws in conflict with this act are
19 hereby repealed.

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