

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas As Engrossed: S2/12/99 S2/17/99 S2/25/99 S3/18/99 S4/1/99 H4/7/99

2 82nd General Assembly

# A Bill

3 Regular Session, 1999

SENATE BILL 426

4

5 By: Senators Brown, Bradford, *Webb*

6 By: Representatives Magnus, Madison, Faris, *T. Thomas, Ferrell, Agee*

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## For An Act To Be Entitled

10 "AN ACT TO IMPOSE MINIMUM STAFFING REQUIREMENTS IN  
11 ARKANSAS NURSING FACILITIES\NURSING HOMES; AND FOR  
12 OTHER PURPOSES. "

13

14

## Subtitle

15 "TO IMPOSE MINIMUM STAFFING REQUIREMENTS  
16 IN ARKANSAS NURSING FACILITIES\NURSING  
17 HOMES. "

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

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22 SECTION 1. For purposes of this Act "nursing facility\nursing home"  
23 means any buildings, structure, agency, institution, or other place for the  
24 reception, accommodation, board, care, or treatment of two (2) or more  
25 unrelated individuals, who, because of physical or mental infirmity are unable  
26 to sufficiently or properly care for themselves, and for which reception,  
27 accommodation, board, care, and treatment, a charge is made, provided the term  
28 "nursing facility\nursing home" shall not include the offices of private  
29 physicians and surgeons, boarding homes, residential care facilities,  
30 intermediate care facilities for the mentally retarded, or hospitals, or  
31 institutions operated by the federal government or licensed by the Division of  
32 Developmental Disabilities Services or any facility which is conducted by and  
33 for those who rely exclusively upon treatment by prayer alone for healing in  
34 accordance with the tenets or practices of any recognized religious  
35 denomination.

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1           SECTION 2. (a) The Department of Human Services shall not issue or  
2 renew a license of a nursing facility\nursing home unless that facility  
3 employs the nursing personnel needed to provide continuous twenty-four (24)  
4 hour nursing care and service to meet the needs of each resident in the  
5 nursing facility\nursing home and the standard of care as required by all  
6 state and federal regulations.

7           (b) The standard of care required by this Act shall be the minimum  
8 standard of care required by nursing facilities\nursing homes and shall be  
9 adjusted upwards to meet the care needs of residents.

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11           SECTION 3. (a) By June 30, 2000, a nursing facility\nursing home shall  
12 maintain a ratio of unlicensed nursing personnel to nursing facility\nursing  
13 home residents of no fewer than:

14                   (1) One (1) certified nursing assistant to eight (8) residents  
15 during the day shift;

16                   (2) One (1) certified nursing assistant to twelve (12) residents  
17 during an evening shift; and

18                   (3) One (1) certified nursing assistant to eighteen (18)  
19 residents during the night shift.

20           (b) By June 30, 2000, a nursing facility\nursing home shall maintain a  
21 ratio of licensed personnel of no fewer than:

22                   (1) A full-time registered nurse director of nursing; and

23                   (2) Licensed nurses including, but not limited to, registered  
24 nurses, licensed practical nurses or licensed vocational nurses in a ratio of  
25 no fewer than:

26                           (A) One (1) nurse to thirty (30) residents during the day  
27 shift;

28                           (B) One (1) nurse to thirty (30) residents during the  
29 evening shift; and

30                           (C) One (1) nurse to fifty (50) residents during the  
31 nightshift.

32           (c) By June 30, 2000, in facilities containing seventy (70) or more  
33 beds, the nursing facility\nursing home shall employ a registered nurse  
34 supervisor during the day and evening shifts in addition to the requirements  
35 of subsection (b) of this section.

36           (d) By June 30, 2000, in facilities containing one hundred (100) or

1 more beds, the nursing facility\nursing home shall, in addition to the  
2 requirements of subsection (b) and (c) of this section:

3 (1) Employ a registered nurse supervisor during the night shifts;

4 (2) Employ a full-time assistant director of nursing; and

5 (3) Employ a full-time registered nurse director of in-service  
6 education.

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8 SECTION 4. (a) By September 30, 2000, a nursing facility\nursing home  
9 shall maintain a ratio of unlicensed nursing personnel to nursing  
10 facility\nursing home residents of no fewer than:

11 (1) One (1) certified nursing assistant to seven (7) residents  
12 during the day shift:

13 (2) One (1) certified nursing assistant to twelve (12) residents  
14 during an evening shift; and

15 (3) One (1) certified nursing assistant to eighteen (18)  
16 residents during the night shift.

17 (b) By September 30, 2000, a nursing facility\nursing home shall  
18 maintain a ratio of licensed personnel of no fewer than:

19 (1) A full-time registered nurse director of nursing; and

20 (2) Licensed nurses including, but not limited to, registered  
21 nurses, licensed practical nurses or licensed vocational nurses in a ratio of  
22 no fewer than:

23 (A) One (1) nurse to fifteen (15) residents during the day  
24 shift;

25 (B) One (1) nurse to fifteen (15) residents during the  
26 evening shift; and

27 (C) One (1) nurse to thirty-five (35) residents during the  
28 nightshift.

29 (c) By September 30, 2000, in facilities containing seventy (70) or  
30 more beds, the nursing facility\nursing home shall employ a registered nurse  
31 supervisor during the day and evening shifts in addition to the requirements  
32 of subsection (b) of this section.

33 (d) By September 30, 2000, in facilities containing one hundred (100)  
34 or more beds, the nursing facility\nursing home shall, in addition to the  
35 requirements of subsection (b) and (c) of this section:

36 (1) Employ a registered nurse supervisor during the night shifts;

1           (2) Employ a full-time assistant director of nursing; and

2           (3) Employ a full-time registered nurse director of in-service  
3 education.

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5           SECTION 5. An employee designated as a member of the nursing staff  
6 shall not be required to provide services such as food preparation,  
7 housekeeping, laundry or maintenance services except as necessary to maintain  
8 a safe and sanitary environment. Persons employed to provide the additional  
9 services shall not be counted in determining the staffing ratios required by  
10 this Act.

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12           SECTION 6. (a) Each nursing facility\nursing home shall post on each  
13 hall, wing or corridor, the number of licensed and unlicensed personnel on  
14 duty at each shift. The posting shall consist of a sign-in sheet to be signed  
15 by each staff member as the staff member reports to work and the staff member  
16 shall indicate on the sheet the time of departure.

17           (b) The current number of residents on that unit shall be posted at the  
18 same place as the staffing report and filed with the staffing report for the  
19 same time period.

20           (c) This information shall be posted in a conspicuous place and in a  
21 manner which is visible and accessible to all residents, their families,  
22 caregivers, and visitors. These records shall be filed and saved by the  
23 nursing facility\nursing home until the next survey and these records shall be  
24 available for review by any interested person upon a written request.

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26           SECTION 7. (a) Every three (3) months, each nursing facility\nursing  
27 home shall submit a report of all shifts which fail to meet the minimum  
28 staffing requirements of this Act to the Office of Long-Term Care. A pattern  
29 of failure to comply with the provisions of this Act is a Class B violation in  
30 accordance with Arkansas Code 20-10-206. Upon determination by the Office of  
31 Long-Term Care that a pattern of failure to comply with the provisions of this  
32 Act has occurred, the nursing facility\nursing home shall submit to the Office  
33 of Long-Term Care, on a monthly basis, a report stating the nursing staff-to-  
34 resident ratios for each shift.

35           (b) If, at the end of three (3) months after the Office of Long-Term  
36 Care has found the nursing facility\nursing home to be out of compliance, the

1 Office of Long-Term Care, in addition to the civil monetary penalties which  
2 have accrued shall prohibit the facility from admitting new residents until  
3 the facility is in compliance.

4 (c) The failure to meet the requirement regarding posting of current  
5 staff-resident ratios set forth in Section 6 of this Act is a Class C  
6 violation in accordance with Arkansas Code 20-10-206.

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8 SECTION 8. The Office of Long-Term Care shall determine the definition  
9 of day shift, evening shift, night shift and pattern of failure by regulation.

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11 SECTION 9. The staffing standards as set forth in Sections 3 and 4 of  
12 this Act are to be construed as nursing facility staffing goals above the  
13 current standards as established by the Office of Long-Term Care, and  
14 enhancement programs established and funded by the General Assembly in the  
15 Medicaid Program, Wage Enhancement Program as established by special language  
16 in the Department of Human Services appropriation approved by the Eighty-  
17 second General Assembly. By June 30, 1999 and June 30, 2000, the Chief Fiscal  
18 Officer of the State shall determine for the upcoming fiscal year, the amount  
19 of state general revenues available to the Department of Human Services for  
20 the implementation of this Act. Upon the completion of that determination,  
21 the Chief Fiscal Officer shall certify the amount of determined available  
22 funding to the Department of Human Services and to the Senate and House Public  
23 Health, Welfare and Labor Committees. Upon receiving the certification of  
24 funding, the Department of Human Services may waive some or all of the  
25 requirements of Section 3 and Section 4 of this Act and may adjust the  
26 requirements and the penalties for non-compliance accordingly, and shall  
27 notify the Senate and House Public Health, Welfare and Labor committees of its  
28 actions. The Department of Human Services shall promulgate all necessary rules  
29 and regulations to effectuate the provisions of this act, and these rules and  
30 regulations shall be subject to the review of the Administrative Rules and  
31 Regulations Subcommittee of the Legislative Council.

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33 SECTION 10. All provisions of this Act of a general and permanent  
34 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
35 Code Revision Commission shall incorporate the same in the Code.

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1 SECTION 11. If any provision of this Act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the Act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 Act are declared to be severable.

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7 SECTION 12. All laws and parts of laws in conflict with this Act are  
8 hereby repealed.

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10 SECTION 13. EMERGENCY CLAUSE. It is hereby found and determined by the  
11 Eighty-second General Assembly that the provisions of this Act are of critical  
12 importance to preserve the efficient operation of programs that deliver  
13 services to the elderly citizens of the State of Arkansas. It is vital that  
14 we ensure that those persons in nursing facilities and nursing homes enjoy a  
15 high quality of life. The Department of Finance and Administration shall be  
16 required to make a determination on June 30, 1999 as to the funds available to  
17 administer the provisions of this Act. Therefore, an emergency is declared to  
18 exist and this act being immediately necessary for the preservation of the  
19 public peace, health and safety shall become effective on the date of its  
20 approval by the Governor. If the bill is neither approved nor vetoed by the  
21 Governor, it shall become effective on the expiration of the period of time  
22 during which the Governor may veto the bill. If the bill is vetoed by the  
23 Governor and the veto is overridden, it shall become effective on the date the  
24 last house overrides the veto.

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26 /s/ Brown, et al  
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