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January 28, 2021

TO: Administrators of Nursing Homes licensed pursuant to N.J.A.C. 8:39 to provide care to adult residents

FROM: Maria P. Christensen, PhD, APN, RN, NEA-BC 
Assistant Commissioner CN & Licensing

SUBJECT: Compliance with N.J.S.A. 30:13-18, new minimum staffing requirements for nursing homes

On October 23, 2020, Governor Philip D. Murphy signed into law P.L. 2020 c 112, codified at N.J.S.A. 30:13-18 (the Act), which establishes minimum staffing requirements for nursing homes with adult residents. These new minimum staffing requirements go into effect on February 1, 2021. Please note that pediatric nursing homes are exempt from compliance with the Act. The Department of Health will be codifying these requirements in forthcoming amendments to N.J.A.C. 8:39; however, compliance with the Act is required prior to these regulatory changes. The requirements of the law are summarized below.

I. New Direct Care Staff-to-Resident Ratios

“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 following direct care staff-to-resident ratios will apply to nursing homes beginning on February 1, 2021:

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 shall be certified nurse aides, and each direct staff member shall be signed in to work as a certified nurse aide and shall 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 shall sign in to work as a certified nurse aide and perform certified nurse aide duties.

II. When Compliance is Necessary Based on Census Increase

A nursing home is exempt from any increase in direct care staffing ratios upon an increase in the resident census for a period of nine consecutive shifts from the date of the increase in the resident census.

III. Computing Direct Care Staff-to-Resident Ratios

The following standards apply to the computation of the direct care staff-to-resident ratios:

1. The computation of minimum direct care staffing ratios shall be carried to the hundredth place (i.e., 0.00).

2. If the application of the required direct care staff-to-resident ratios yields a result other than a whole number of direct care staff, including certified nurse aides, for a shift, the number of required direct care staff members shall be rounded to the next higher whole number when the resulting ratio, carried to the hundredth place, is fifty-one hundredths or higher.

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

IV. Effect on other Staffing Minimums

The Act does not affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of the Department of Health for staff other than direct care staff, including certified nurse aides, or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum.

In addition, the Act provides that a nursing home 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.

Questions regarding this memorandum may be directed to Michael Kennedy at michael.kennedy@doh.nj.gov and Eugene Brenycz at eugene.brenycz@doh.nj.gov