This Document can be made available in alternative formats upon request

1.1

1.2

1.22

1.23

State of Minnesota

HOUSE OF REPRESENTATIVES

H. F. No. 2079 NINETIETH SESSION

A bill for an act

relating to health; changing provisions for adequate care requirement; requiring a

Authored by Sandstede, Moran, Fischer, Liebling, Murphy, E., and others 03/06/2017 The bill was read for the first time and referred to the Committee on Health and Human Services Reform

report; amending Minnesota Statutes 2016, section 144A.04, subdivision 7; 13 proposing coding for new law in Minnesota Statutes, chapter 256R. 1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA: 1.5 Section 1. Minnesota Statutes 2016, section 144A.04, subdivision 7, is amended to read: 1.6 Subd. 7. Minimum nursing staff Adequate care requirement. The minimum staffing 1.7 standard for nursing personnel in certified nursing homes is as follows: 1.8 (a) The minimum number of productive hours of nursing personnel to be provided in a 1.9 nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per 1.10 standardized resident day. Upon transition to the 34 group, RUG-III resident classification 1.11 system, the 0.95 hours per standardized resident day shall no longer apply. 1.12 (b) For purposes of this subdivision, "hours of nursing personnel" means the paid, 1.13 1.14 on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours 1.15 during which nurses and nursing assistants are engaged in nursing duties. Examples of 1.16 nursing duties may be found in Minnesota Rules, part 4655.6400. Not included are vacations, 1.17 holidays, sick leave, in-service classroom training, or lunches. Also not included are the 1.18 nonproductive nursing hours of the in-service training director. In homes with more than 1.19 60 licensed beds, the hours of the director of nursing are excluded. "Standardized resident 1.20 1.21 day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in Minnesota Rules, part 9549.0059, subpart

2, calculated on the basis of a facility's census for any given day. For the purpose of

Section 1. 1 02/08/17 REVISOR SGS/IL 17-2753

determining a facility's census, the commissioner of health shall exclude the resident days claimed by the facility for resident therapeutic leave or bed hold days.

2.1

2.2

23

2.4

2.5

2.6

2.7

2.8

2.9

2.10

2.11

2.12

2.13

2.14

2.15

2.16

2.17

2.18

2.19

2.20

2.21

2.22

2.23

2.24

2.25

2.26

2.27

2.28

2.29

2.30

2.31

2.32

2.33

- (c) Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.
- (d) A nursing home that is issued a notice of noncompliance under section 144A.10, subdivision 5, for a violation of this subdivision, shall be assessed a civil fine of \$300 for each day of noncompliance, subject to section 144A.10, subdivisions 7 and 8.
- (b) For purposes of this subdivision, "productive hours of nursing personnel" means the hours of all nurses, nursing assistants, and therapeutic medication aides providing on-duty, direct hands-on resident care, or other direct hands-on care nursing duties, calculated on the basis of each 24-hour period. The hours not included in productive hours of nursing personnel include but are not limited to: vacations, supplemental holiday pay, sick leave, in-service classroom training, and the hours of in-service training. Also not included in productive hours of nursing personnel are hours of service by the director of nursing, the assistant director of nursing, social workers, the minimum data set nurse, and nursing hours separately reimbursed under chapter 256R.
- (c) For purposes of this subdivision, "standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as published by the department, calculated on the basis of a facility's census each day. Changes of RUG class assignment shall not take effect until receipt of notification from the commissioner of health. For the purpose of determining a facility's census, the commissioner of health shall exclude the resident days claimed by the facility for resident therapeutic leave or bed hold days.
- (d) Calculation of productive nursing hours per resident day is performed by dividing total productive hours of nursing personnel for each day by the number of residents on that day. Calculation of productive nursing hours per standardized resident day is performed by dividing total productive hours of nursing personnel for each day by the total of standardized resident days for that day. Licensed nursing homes shall prepare monthly reports to the commissioner according to instructions and on forms provided by the commissioner. The filed reports are public documents and shall be posted in a prominent location at each nursing home site for review by patients, visitors, and staff where applicable. Copies must be provided to the facility's staff collective bargaining representative upon request.

Section 1. 2

02/08/17	REVISOR	SGS/IL	17-2753

(e) A nursing home with one or more instance in wh	hich the adequate care standard is
not met shall be issued a notice of noncompliance unde	er section 144A.10, subdivision 5,
for a violation of this subdivision, and beginning April	15, 2018, shall be assessed a civil
fine according to clauses (1) to (3), subject to section 1-	44A.10, subdivisions 7 and 8. For:
(1) the first occurrence of noncompliance in each si	x-month period, the fine shall be
<u>\$250;</u>	
(2) each of the second and third occurrence in each	six-month period, the fine shall be
\$500; and	
(3) each occurrence over three occurrences in each	six-month period, the fine shall be
\$1,000. An "occurrence of noncompliance" means either	er a day during which the actual
staffing levels fall below the standard required in parag	graph (a) or (b), or an occurrence in
which data reported under paragraph (d) are determined b	by the commissioner to be materially
naccurate.	
(f) The commissioner may allow exceptions to the d	lefinition of nursing staff to include
other direct care staff, waive notices of noncompliance, a	and waive fines under extraordinary
sircumstances at the sole discretion of the commissione	<u>er.</u>
(g) Fines collected under this subdivision shall be de	posited in a special revenue account
nd shall be used by the commissioner for grants for ed	ducation and training of direct care
staff.	
EFFECTIVE DATE. This section is effective the o	day following final enactment.
Sec. 2. [256R.461] NURSING FACILITY RATE IN	NCREASES; NURSING HOME
PROVIDERS.	
Beginning January 1, 2019, nursing facilities may a	pply to the commissioner and the
commissioner shall allow rate increases to nursing facili	ities to cover the costs of complying
with the standards in section 144A.04. Applications sha	ll be submitted to the commissioner
n a manner determined by the commissioner. In determ	nining allowable rate increases, the
commissioner shall consider:	
(1) the standards in section 144A.04, subdivision 7;	
(2) actual productive hours of direct care, average h	ourly cost of employed staff, and
resident days by RUGs classification reported on a faci	lity's most recent annual statistical
and cost report under chapter 256R; and	

Sec. 2. 3

02/08/17 REVISOR SGS/IL 17-2753

4.1 (3) the facility's statement of the number of hours, by discipline, that are required to be
4.2 added to achieve adequate care in order to ensure compliance, not to exceed the difference
4.3 between the adequate care standard and previous levels by more than 20 percent.

4.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. 4