

H. F. No. 2079

~~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.~~

~~(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.

(e) A nursing home with one or more instance in which the adequate care standard is not met shall be issued a notice of noncompliance under 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 144A.10, subdivisions 7 and 8. For:

(1) the first occurrence of noncompliance in each six-month period, the fine shall be \$250;

(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 a day during which the actual staffing levels fall below the standard required in paragraph (a) or (b), or an occurrence in which data reported under paragraph (d) are determined by the commissioner to be materially inaccurate.

(f) The commissioner may allow exceptions to the definition of nursing staff to include other direct care staff, waive notices of noncompliance, and waive fines under extraordinary circumstances at the sole discretion of the commissioner.

(g) Fines collected under this subdivision shall be deposited in a special revenue account and shall be used by the commissioner for grants for education and training of direct care staff.

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

**Sec. 2. [256R.461] NURSING FACILITY RATE INCREASES; NURSING HOME PROVIDERS.**

Beginning January 1, 2019, nursing facilities may apply to the commissioner and the commissioner shall allow rate increases to nursing facilities to cover the costs of complying with the standards in section 144A.04. Applications shall be submitted to the commissioner in a manner determined by the commissioner. In determining allowable rate increases, the commissioner shall consider:

(1) the standards in section 144A.04, subdivision 7;

(2) actual productive hours of direct care, average hourly cost of employed staff, and resident days by RUGs classification reported on a facility's most recent annual statistical and cost report under chapter 256R; and

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.