HOUSE BILL No. 1096

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-28-17.

Synopsis: Health facility nursing staff ratios. Establishes and specifies minimum direct care nursing staff ratios and registered nurse staffing for health facilities for day shifts and evening shifts, with exceptions for specified circumstances. Requires notification to the state long term care ombudsman and residents of the health facility when a health facility is granted a waiver by the state department of health (state department) of the direct care nursing staff ratio requirements. Requires the state department to enforce the direct care nursing staff ratios and allows the state department to cite the health facility with a deficiency for violations of the direct care nursing staff ratio requirements.

Effective: July 1, 2013.

Kersey

January 8, 2013, read first time and referred to Committee on Public Health.

C o p y

Introduced

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1096

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-91.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 91.5. "Day shift", for purposes of IC 16-28-17, has the meaning set forth in IC 16-28-17-1.**

SECTION 2. IC 16-18-2-94.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 94.7. "Direct care nursing staff", for purposes of IC 16-28-17, has the meaning set forth in IC 16-28-17-2.**

SECTION 3. IC 16-18-2-118.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 118.5. "Evening shift", for purposes of IC 16-28-17, has the meaning set forth in IC 16-28-17-3.**

SECTION 4. IC 16-28-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 17. Health Facility Staffing Requirements

Sec. 1. As used in this chapter, "day shift" means the time period between 7 a.m. and 7 p.m.

Sec. 2. As used in this chapter, "direct care nursing staff" means nurses licensed under IC 25-23 or nurse aides who provide direct, hands-on care to residents in a health facility. The term does not include therapy personnel or an individual acting as a director of nursing for a facility.

Sec. 3. As used in this chapter, "evening shift" means the time period between 7:01 p.m. and 6:59 a.m.

Sec. 4. (a) Except as provided in section 5 of this chapter, a health facility shall maintain sufficient direct care nursing staff to provide nursing and related services that meet the needs of each resident of the health facility.

(b) A health facility shall provide:

(1) at least one (1) direct care nursing staff member per every six (6) residents of the facility during the day shift;

(2) at least one (1) direct care nursing staff member per every nine (9) residents of the facility during the evening shift; and

(3) for every forty (40) residents of the facility, at least one (1) registered nurse who is:

(A) licensed under IC 25-23;

(B) providing direct care services;

(C) not acting as the director of nursing; and

(D) present at the health facility at all times during the shift.

Sec. 5. (a) A health facility is not required to meet the direct care nursing staff ratio requirements in section 4 of this chapter if the health facility is assisting with accommodations for individuals under the following:

(1) A declaration by the governor or other authorized person of a disaster emergency.

(2) A natural disaster.

(b) The state department may waive the direct care nursing staff ratio requirements of section 4 of this chapter if:

(1) the health facility demonstrates to the satisfaction of the state department that the facility has been unable, despite diligent efforts, to recruit appropriate personnel; and

(2) the state department determines that the waiver would not endanger the health or safety of residents.

A waiver under this subsection is subject to renewal, and the state department may require the health facility to use other qualified,

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licensed personnel during the waiver time period.

(c) The state department shall notify the state long term care ombudsman appointed under IC 12-10-13-8 of a waiver granted to a health facility by the state department under subsection (b).

(d) A health facility that receives a waiver under subsection (b) shall notify the health facility's residents in writing of the waiver and the reason for the waiver.

(e) For periods in which registered nursing services are not available at a health facility when a waiver has been granted under this section, the health facility shall have a procedure in place in which a registered nurse or physician is under employment or contract with the health facility to respond immediately to any telephone calls from the health facility.

Sec. 6. (a) The state department shall enforce the direct care nursing staff ratio requirements set forth in this chapter. The state department may adopt rules under IC 4-22-2 necessary to implement this chapter.

(b) The state department may cite a health facility that does not comply with this chapter with a deficiency.

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