



NEW YORK STATE SENATOR

Pete Harckham

Harckham and Senate Pass Legislation to Improve Hospital and Nursing Home Staffing Levels

PETE HARCKHAM May 7, 2021

| ISSUE: **NURSING HOME, SAFE STAFFING, HEALTH CARE SERVICES**



Albany, NY – New York State Senator Pete Harckham and his colleagues in the Senate advanced a legislative package this week that outlines hospital and nursing home staffing standards and protocols. These bills will require every hospital to establish Clinical Staffing Committees to develop and oversee the implementation of annual clinical staffing plans for nurses and non-nurse support staff at each hospital in the state.

Additionally, the legislation will mandate the Commissioner of Health to publicize the new regulations that will require every nursing home to meet specific hours per resident day of care for certified nurse aides, registered nurses, and licensed practical nurses.

“This new legislation continues the Senate’s wide range of efforts in safeguarding our residents,” said Harckham. “By establishing staffing standards and enhancing staffing levels, we will see an improvement in clinical outcomes for our loved ones.”

This legislative package builds on legislation passed in March by the Senate to better support and protect nursing home residents. In the 2021-2022 State Budget, the Senate required nursing homes to spend at least 70% of their revenue on direct patient care and 40% on resident-facing staffing, and included \$64 million for increased staffing. The Senate also held joint statewide public hearings this past year on residential health care facilities and Covid-19 to discuss various issues and concerns directly with the public.

Legislation passed by the Senate includes:

Nursing Home Minimum Staffing Standards. This bill (S.6346) will:

- Require the Commissioner of Health to establish staffing standards for nursing home minimum staffing levels and impose civil penalties for nursing homes that fail to adhere to the minimum standards.
- Nursing homes must meet a daily average of 3.5 hours of nursing care per resident per day with no less than 2.2 hours of care for certified nurse assistants and 1.1 hours for LPN / RNs.
- The nursing home must post information regarding nurse staffing at the facility.

- Regulations promulgated by the Department of Health (DOH) to establish the civil penalties will include mitigating factors to account for: 1) extraordinary circumstances facing the facility such as officially declared emergencies or natural disasters, 2) the frequency of the violations of the facility, and 3) the existence of a nurse labor shortage in the area of the nursing home.
- The effective date is January 1, 2022 with the civil penalties being enforced starting April 1, 2022.

Establishment of Hospital Clinical Staffing Committees. This bill (S.1168A) will:

- Mandate each hospital to establish a Staffing Committee no later than January 1, 2022, and that each hospital shall adopt and submit its first hospital staffing plan no later than July 1, 2022. Beginning January 1, 2023, and annually thereafter, each hospital shall implement the staffing plan adopted by July 1 of the prior calendar year. DOH will post the plans on its website no later than July 31 of each year.
- Require the Committees to develop and oversee the implementation of annual clinical staffing plans for nurses and non-nurse support staff at each hospital in the state.
- The Staffing Committee will be made up of “at least” 50% of nurses (registered nurses, licensed practical nurses, and ancillary members) and “up to” 50% will be hospital administrators (CFO, chief nursing officer, and unit directors). If there is a collective bargaining agreement, the selection must follow what is laid out in the agreement.
- The committee will be responsible for developing and overseeing the implementation of a clinical staffing plan that will include specific guidelines or ratios, matrices, or grids indicating how many patients are assigned to each nurse and the number of ancillary staff in each unit.

- The staffing plans must be posted in a publicly conspicuous area and posted on the DOH hospital profile website.
- Require the creation of an advisory commission to oversee the effectiveness of the Clinical Staffing Committees with an initial report due to the Legislature and the Governor by October 31, 2024.