

106TH CONGRESS  
2D SESSION

# H. R. 5166

To amend titles XVIII and XIX of the Social Security Act to impose requirements with respect to staffing in nursing facilities receiving Medicare or Medicaid funding.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2000

Ms. SCHAKOWSKY (for herself, Mr. RUSH, Mr. BLAGOJEVICH, Mrs. MCCARTHY of New York, Mr. WAXMAN, and Mr. FROST) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to impose requirements with respect to staffing in nursing facilities receiving Medicare or Medicaid funding.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Quality Care for Nurs-  
5 ing Home Patients Act of 2000”.

1 **SEC. 2. STAFFING REQUIREMENTS FOR MEDICARE- AND**  
2 **MEDICAID-FUNDED NURSING FACILITIES.**

3 (a) **MEDICARE-FUNDED SKILLED NURSING FACILI-**  
4 **TIES.—**

5 (1) **MINIMUM STANDARDS.—**Section 1819(b)(4)  
6 of the Social Security Act (42 U.S.C. 1395i–3(b)(4))  
7 is amended by adding at the end the following new  
8 subparagraph:

9 “(D) **MINIMUM DIRECT CARE STAFFING**  
10 **REQUIREMENTS.—**

11 “(i) **LICENSED NURSES.—**Subject to  
12 subsection (f)(8), a skilled nursing facility  
13 must have at least one licensed nurse on  
14 duty on the premises for every—

15 “(I) 15 residents present during  
16 the day;

17 “(II) 20 residents present during  
18 the evening; and

19 “(III) 30 residents present dur-  
20 ing the night.

21 “(ii) **DIRECT CAREGIVERS.—**Subject  
22 to subsection (f)(8), a skilled nursing facil-  
23 ity must have at least one direct caregiver  
24 on duty on the premises for every—

25 “(I) 5 residents present during  
26 the day;

1                   “(II) 10 residents present during  
2                   the evening; and

3                   “(III) 15 residents present dur-  
4                   ing the night.

5                   “(iii) COUNTING.—In determining  
6                   compliance with the staffing levels under  
7                   this subparagraph:

8                   “(I) ADMINISTRATIVE SERV-  
9                   ICES.—In a facility with 60 or more  
10                  beds, an individual may not be count-  
11                  ed while performing noncaregiving ad-  
12                  ministrative services.

13                  “(II) OTHER SERVICES.—An in-  
14                  dividual may not be counted while  
15                  performing food preparation, house-  
16                  keeping, laundry, maintenance serv-  
17                  ices, or other noncaregiving-related  
18                  activities.

19                  “(iv) CONSTRUCTION.—The staffing  
20                  requirements of this subparagraph are in  
21                  addition to the requirements of subpara-  
22                  graph (C).

23                  “(v) DEFINITIONS.—In this subpara-  
24                  graph:

1           “(I) LICENSED NURSE.—The  
2 term ‘licensed nurse’ means a reg-  
3 istered professional nurse, licensed  
4 practical nurse, or licensed vocational  
5 nurse who meets State licensing re-  
6 quirements and who provides direct  
7 care (including treatment and medica-  
8 tions), who performs resident assess-  
9 ment and observation, who supervises  
10 direct patient care at the unit level, or  
11 who provides planning or coordination  
12 with other resident services.

13           “(II) DIRECT CAREGIVER.—The  
14 term ‘direct caregiver’ means a cer-  
15 tified nurse assistant who provides di-  
16 rect care or a licensed nurse who pro-  
17 vides direct care.

18           “(III) DAY.—The term ‘day’  
19 means an eight-hour period com-  
20 mencing not earlier than 6 a.m. nor  
21 later than 8 a.m.

22           “(IV) EVENING.—The term  
23 ‘evening’ means an eight-hour period  
24 commencing not earlier than 2 p.m.  
25 nor later than 4 p.m.

1                   “(V) NIGHT.—The term ‘night’  
2                   means an eight-hour period com-  
3                   mencing not earlier than 10 p.m. nor  
4                   later than 12 midnight.”.

5                   (2) HIGHER STANDARDS.—Section 1819(f) of  
6                   such Act (42 U.S.C. 1395i-3(f)) is amended by add-  
7                   ing at the end the following new paragraph:

8                   “(8) HIGHER STAFFING STANDARDS FOR RESI-  
9                   DENTS WITH HIGHER NURSING CARE NEEDS.—

10                   “(A) IN GENERAL.—The Secretary may es-  
11                   tablish higher minimum staffing requirements  
12                   than those under subsection (b)(4)(D), includ-  
13                   ing for facilities with a higher percentage of  
14                   residents with extensive care needs.

15                   “(B) CONSTRUCTION.—Nothing in this  
16                   paragraph shall be construed to prohibit a  
17                   State from imposing higher minimum staffing  
18                   requirements than those under subsection  
19                   (b)(4)(D) or subparagraph (A).”.

20                   (3) PAYMENT MODIFICATION.—Section  
21                   1888(e)(4)(G) of such Act is amended by adding at  
22                   the end the following new clause:

23                   “(iv) ADJUSTMENT TO REFLECT  
24                   COSTS OF MINIMUM STAFFING.—The Sec-  
25                   retary shall provide for an appropriate ad-

1           justment to account for the costs attrib-  
2           utable to meeting the minimum staffing re-  
3           quirements of subsections (b)(4)(D) and  
4           (f)(8) of section 1819.”.

5           (b) MEDICAID-FUNDED NURSING FACILITIES.—

6           (1) MINIMUM STANDARDS.—Section 1919(b)(4)  
7           of such Act (42 U.S.C. 1396r(b)(4)) is amended by  
8           adding at the end the following new subparagraph:

9           “(D) MINIMUM DIRECT CARE STAFFING  
10          REQUIREMENTS.—

11          “(i) LICENSED NURSES.—Subject to  
12          subsection (f)(8), a nursing facility must  
13          have at least one licensed nurse on duty on  
14          the premises for every—

15                  “(I) 15 residents present during  
16                  the day;

17                  “(II) 20 residents present during  
18                  the evening; and

19                  “(III) 30 residents present dur-  
20                  ing the night.

21          “(ii) DIRECT CAREGIVERS.—Subject  
22          to subsection (f)(8), a nursing facility must  
23          have at least one direct caregiver on duty  
24          on the premises for every—

1                   “(I) 5 residents present during  
2 the day;

3                   “(II) 10 residents present during  
4 the evening; and

5                   “(III) 15 residents present dur-  
6 ing the night.

7                   “(iii) COUNTING.—In determining  
8 compliance with the staffing levels under  
9 this subparagraph:

10                   “(I) ADMINISTRATIVE SERV-  
11 ICES.—In a facility with 60 or more  
12 beds, an individual may not be count-  
13 ed while performing noncaregiving ad-  
14 ministrative services.

15                   “(II) OTHER SERVICES.—An in-  
16 dividual may not be counted while  
17 performing food preparation, house-  
18 keeping, laundry, maintenance serv-  
19 ices, or other noncaregiving-related  
20 activities.

21                   “(iv) CONSTRUCTION.—The staffing  
22 requirements of this subparagraph are in  
23 addition to the requirements of subpara-  
24 graph (C).

1                   “(v) DEFINITIONS.—In this subpara-  
2 graph:

3                   “(I) LICENSED NURSE.—The  
4 term ‘licensed nurse’ means a reg-  
5 istered professional nurse, licensed  
6 practical nurse, or licensed vocational  
7 nurse who meets State licensing re-  
8 quirements and who provides direct  
9 care (including treatment and medica-  
10 tions), who performs resident assess-  
11 ment and observation, who supervises  
12 direct patient care at the unit level, or  
13 who provides planning or coordination  
14 with other resident services.

15                   “(II) DIRECT CAREGIVER.—The  
16 term ‘direct caregiver’ means a cer-  
17 tified nurse assistant who provides di-  
18 rect care or a licensed nurse who pro-  
19 vides direct care.

20                   “(III) DAY.—The term ‘day’  
21 means an eight-hour period com-  
22 mencing not earlier than 6 a.m. nor  
23 later than 8 a.m.

24                   “(IV) EVENING.—The term  
25 ‘evening’ means an eight-hour period

1 commencing not earlier than 2 p.m.  
2 nor later than 4 p.m.

3 “(V) NIGHT.—The term ‘night’  
4 means an eight-hour period com-  
5 mencing not earlier than 10 p.m. nor  
6 later than 12 midnight.”.

7 (2) HIGHER STANDARDS.—Section 1919(f) of  
8 such Act (42 U.S.C. 1396r(f)) is amended by adding  
9 at the end the following new paragraph:

10 “(8) HIGHER STAFFING STANDARDS FOR RESI-  
11 DENTS WITH HIGHER NURSING CARE NEEDS.—

12 “(A) IN GENERAL.—The Secretary may es-  
13 tablish higher minimum staffing requirements  
14 than those under subsection (b)(4)(D), includ-  
15 ing for facilities with a higher percentage of  
16 residents with extensive care needs.

17 “(B) CONSTRUCTION.—Nothing in this  
18 paragraph shall be construed to prohibit a  
19 State from imposing higher minimum staffing  
20 requirements than those under subsection  
21 (b)(4)(D) or subparagraph (A).”.

22 (3) PAYMENT MODIFICATION.—Section  
23 1902(a)(13)(A) of such Act is amended—

24 (A) in clause (iii), by striking the final  
25 “and”;

1 (B) in clause (iv), by striking the semi-  
2 colon and inserting “, and”; and

3 (C) by inserting after clause (iv) the fol-  
4 lowing new clause:

5 “(v) in the case of nursing facilities,  
6 such rates take into account the costs at-  
7 tributable to the requirements of section  
8 1919(b)(4)(D).”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to services provided on or after  
11 the date that is two years after the date of enactment of  
12 this Act.

13 (d) REPORT TO CONGRESS ON ADEQUACY OF PER-  
14 SONNEL TO MEET STAFFING REQUIREMENTS.—Not later  
15 than one year after the date of enactment of this Act, the  
16 Secretary of Health and Human Services shall submit to  
17 the Congress a report regarding the adequacy of personnel  
18 in nursing facilities covered under titles XVIII and XIX  
19 of the Social Security Act to meet the direct care staffing  
20 requirements required under the amendments made by  
21 this Act to sections 1819(b)(4)(D) and 1919(b)(4)(D) of  
22 the Social Security Act (42 U.S.C. 1395i–3(b)(4)(D) and  
23 1396r(b)(4)(D)) and, if inadequate, recommendations on  
24 steps that should be taken to ensure that adequate num-  
25 bers of trained staff are available to meet such require-

1 ments, including ways to attract and retain such direct  
2 caregiving personnel.

3 **SEC. 3. DISCLOSURE OF STAFFING LEVELS AT MEDICARE-**  
4 **AND MEDICAID-FUNDED NURSING FACILI-**  
5 **TIES.**

6 (a) **MEDICARE-FUNDED SKILLED NURSING FACILI-**  
7 **TIES.—**

8 (1) **IN GENERAL.—**Section 1819(b)(4) of the  
9 Social Security Act (42 U.S.C. 1395i–3(b)(4)), as  
10 amended by section 2(a)(1) of this Act, is further  
11 amended by adding at the end the following new  
12 subparagraph:

13 “(E) **DISCLOSURE OF STAFFING LEV-**  
14 **ELS.—**A skilled nursing facility must conspicu-  
15 ously post the following notices adjacent to each  
16 other in each area or unit to which such notices  
17 apply in the facility in a manner visible and ac-  
18 cessible to residents, their families, caregivers,  
19 and prospective residents of such facility and in  
20 such a uniform format as the Secretary may  
21 prescribe and must retain the information on  
22 such notices for at least one year after posting  
23 and make such information available upon re-  
24 quest:

1           “(i) MINIMUM STAFFING REQUIRE-  
2           MENTS.—A notice describing the minimum  
3           staffing requirements set forth in subpara-  
4           graph (D) and, if applicable, subsection  
5           (f)(8).

6           “(ii) CURRENT STAFF INFORMA-  
7           TION.—A notice showing, separately for  
8           each shift in the area or unit of the facility  
9           in which it is posted—

10                   “(I) the current number of direct  
11                   caregivers (including licensed nurses)  
12                   present on the premises who perform  
13                   resident care and the name and pro-  
14                   fessional title of each such caregiver;

15                   “(II) the current ratio of resi-  
16                   dents to licensed nurses present on  
17                   the premises;

18                   “(III) the current ratio of resi-  
19                   dents to direct caregivers (including  
20                   licensed nurses) present on the prem-  
21                   ises; and

22                   “(IV) the current number of resi-  
23                   dents of such area or unit.”.

24           (2) CONFORMING AMENDMENT.—Section  
25           1819(b)(4)(D)(v) of such Act (42 U.S.C. 1395i-

1 3(b)(4)(D)(v)), as added by section 2(a)(1) of this  
2 Act, is amended by inserting “and subparagraph  
3 (E)” after “this subparagraph”.

4 (b) MEDICAID-FUNDED NURSING FACILITIES.—

5 (1) IN GENERAL.—Section 1919(b)(4) of such  
6 Act (42 U.S.C. 1396r(b)(4)), as amended by section  
7 2(b)(1) of this Act, is further amended by adding at  
8 the end the following new subparagraph:

9 “(E) DISCLOSURE OF STAFFING LEV-  
10 ELS.—A nursing facility must conspicuously  
11 post the following notices adjacent to each other  
12 in each area or unit to which such notices apply  
13 in the facility in a manner visible and accessible  
14 to residents, their families, caregivers, and pro-  
15 spective residents of such facility and in such a  
16 uniform format as the Secretary may prescribe  
17 and must retain the information on such no-  
18 tices for at least one year after posting and  
19 make such information available upon request:

20 “(i) MINIMUM STAFFING REQUIRE-  
21 MENTS.—A notice describing the minimum  
22 staffing requirements set forth in subpara-  
23 graph (D) and, if applicable, subsection  
24 (f)(8).

1           “(ii) CURRENT STAFF INFORMA-  
2           TION.—A notice showing, separately for  
3           each shift in the area or unit of the facility  
4           in which it is posted—

5                   “(I) the current number of direct  
6                   caregivers (including licensed nurses)  
7                   present on the premises who perform  
8                   resident care and the name and pro-  
9                   fessional title of each such caregiver;

10                   “(II) the current ratio of resi-  
11                   dents to licensed nurses present on  
12                   the premises;

13                   “(III) the current ratio of resi-  
14                   dents to direct caregivers (including  
15                   licensed nurses) present on the prem-  
16                   ises; and

17                   “(IV) the current number of resi-  
18                   dents of such area or unit.”.

19           (2) CONFORMING AMENDMENT.—Section  
20           1919(b)(4)(D)(v) of such Act (42 U.S.C.  
21           1396r(b)(4)(D)(v)), as added by section 2(b)(1) of  
22           this Act, is amended by inserting “and subpara-  
23           graph (E)” after “this subparagraph”.

24           (c) EFFECTIVE DATE.—The amendments made by  
25           this section shall apply to services provided on or after

1 the date that is two years after the date of enactment of  
2 this Act.

3 **SEC. 4. ADMINISTRATIVE STAFFING REQUIREMENTS FOR**  
4 **MEDICARE- AND MEDICAID-FUNDED NURS-**  
5 **ING FACILITIES.**

6 (a) **MEDICARE-FUNDED SKILLED NURSING FACILI-**  
7 **TIES.—**

8 (1) **MINIMUM STANDARDS.—**

9 (A) **IN GENERAL.—**Section 1819(d)(1) of  
10 the Social Security Act (42 U.S.C. 1395i-  
11 3(d)(1)) is amended by adding at the end the  
12 following new subparagraph:

13 “(D) **ADMINISTRATIVE STAFFING.—**A  
14 skilled nursing facility must maintain at least  
15 the administrative staff described in the fol-  
16 lowing clauses (i) through (iv):

17 “(i) **DIRECTOR OF NURSING SERV-**  
18 **ICES.—**An individual who serves full time  
19 as a director of nursing services and who  
20 is a registered professional nurse.

21 “(ii) **ASSISTANT DIRECTOR OF NURS-**  
22 **ING SERVICES.—**An individual who serves  
23 full time as an assistant director of nurs-  
24 ing services and who is a registered profes-  
25 sional nurse, except that in a facility with

1 fewer than 100 beds, such individual may  
2 serve part time and may also serve as a di-  
3 rect care clinical nursing supervisor.

4 “(iii) DIRECTOR OF IN-SERVICE EDU-  
5 CATION.—An individual who serves full  
6 time as a director of in-service education,  
7 who is a registered professional nurse, and  
8 who has, to the extent practicable and ap-  
9 propriate, training in adult education and  
10 gerontology, except that in a facility with  
11 fewer than 100 beds, such individual may  
12 serve part time.

13 “(iv) DIRECT CARE CLINICAL NURS-  
14 ING SUPERVISOR.—For each shift each  
15 day, an individual who serves full time as  
16 a direct care clinical nursing supervisor  
17 and who is a registered professional nurse,  
18 except that in a facility with fewer than  
19 100 beds, such an individual may serve  
20 part time and may also serve as an assist-  
21 ant director of nursing.

22 “(v) LIMITATION ON FULFILLMENT  
23 OF ADMINISTRATIVE PERSONNEL REQUIRE-  
24 MENTS.—An individual cannot satisfy  
25 more than one requirement of clauses (i)

1 through (iv), except as specifically pro-  
2 vided.”.

3 (B) CONFORMING AMENDMENT.—Section  
4 1819(b)(4)(D)(v) of such Act (42 U.S.C.  
5 1395i–3(b)(4)(D)(v)), as added by section  
6 2(a)(1) and amended by section 3(a)(2) of this  
7 Act, is further amended by striking “and sub-  
8 paragraph (E)” and inserting “, subparagraph  
9 (E), and subsection (d)(1)(D)”.

10 (2) PAYMENT MODIFICATION.—Section  
11 1888(e)(4)(G)(iv) of such Act (42 U.S.C.  
12 1395yy(e)(4)(G)(iv)), as added by section 2(a)(3) of  
13 this Act, is amended by striking “section  
14 1819(b)(4)(D)” and inserting “subsections  
15 (b)(4)(D) and (d)(1)(D) of section 1819”.

16 (b) MEDICAID-FUNDED NURSING FACILITIES.—

17 (1) MINIMUM STANDARDS.—

18 (A) IN GENERAL.—Section 1919(d)(1) of  
19 such Act (42 U.S.C. 1396r(d)(1)) is amended  
20 by adding at the end the following new sub-  
21 paragraph:

22 “(D) ADMINISTRATIVE STAFFING.—A  
23 nursing facility must maintain at least the ad-  
24 ministrative staff described in the following  
25 clauses (i) through (iv):

1           “(i) DIRECTOR OF NURSING SERV-  
2 ICES.—An individual who serves full time  
3 as a director of nursing services and who  
4 is a registered professional nurse.

5           “(ii) ASSISTANT DIRECTOR OF NURS-  
6 ING SERVICES.—An individual who serves  
7 full time as an assistant director of nurs-  
8 ing services and who is a registered profes-  
9 sional nurse, except that in a facility with  
10 fewer than 100 beds, such individual may  
11 serve part time and may also serve as a di-  
12 rect care clinical nursing supervisor.

13           “(iii) DIRECTOR OF IN-SERVICE EDU-  
14 CATION.—An individual who serves full  
15 time as a director of in-service education,  
16 who is a registered professional nurse, and  
17 who has, to the extent practicable and ap-  
18 propriate, training in adult education and  
19 gerontology, except that in a facility with  
20 fewer than 100 beds, such individual may  
21 serve part time.

22           “(iv) DIRECT CARE CLINICAL NURS-  
23 ING SUPERVISOR.—For each shift each  
24 day, an individual who serves full time as  
25 a direct care clinical nursing supervisor

1 and who is a registered professional nurse,  
2 except that in a facility with fewer than  
3 100 beds, such an individual may serve  
4 part time and may also serve as an assist-  
5 ant director of nursing.

6 “(v) LIMITATION ON FULFILLMENT  
7 OF ADMINISTRATIVE PERSONNEL REQUIRE-  
8 MENTS.—An individual cannot satisfy  
9 more than one requirement of clauses (i)  
10 through (iv), except as specifically pro-  
11 vided.”.

12 (B) CONFORMING AMENDMENT.—Section  
13 1919(b)(4)(D)(v) of such Act (42 U.S.C.  
14 1396r(b)(4)(D)(v)), as added by section 2(b)(1)  
15 and amended by section 3(b)(2) of this Act, is  
16 further amended by striking “and subparagraph  
17 (E)” and inserting “, subparagraph (E), and  
18 subsection (d)(1)(D)”.

19 (2) PAYMENT MODIFICATION.—Section  
20 1902(a)(13)(A)(v) of such Act (42 U.S.C.  
21 1396a(a)(13)(A)(v)), as added by section 2(b)(3) of  
22 this Act, is amended by striking “section  
23 1919(b)(4)(D)” and inserting “subsections  
24 (b)(4)(D) and (d)(1)(D) of section 1919”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to services provided on or after  
3 the date that is two years after the date of enactment of  
4 this Act.

○