

Connecticut Codifies Nursing Home Daily Posting Requirements, Adds Requirement for Reinstatement after Retaliation

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On July 1, 2019, Connecticut Governor Ned Lamont signed into law Public Act No. 19-89 “**An Act Concerning Nursing Home Staffing Levels**” ([PA 19-89](#)). PA 19-89 sets forth new state-level daily nurse staffing level disclosure requirements for nursing home facilities (including nursing homes and rest homes with nursing supervision as set forth in Conn. Gen. Stat. § 19a-521), authorizes the Department of Public Health (DPH) to take disciplinary action against or issue citations to nursing home facilities for non-compliance with nurse staffing requirements, and newly requires nursing home facilities and residential care homes to take remedial actions in the event employees or residents suffer retaliation as a result of filing or reporting any violation of these staffing level disclosure requirements or other state law obligations. PA 19-89 is intended to reflect federal nursing home staffing regulations. PA 19-89 is effective October 1, 2019.

Daily Staffing Level Disclosure Requirements

PA 19-89 obligates nursing home facilities – **on a daily basis** – to calculate the total number of nurses and nurse’s aides providing direct patient care to residents, and to post this information as described below. This daily staffing calculation may not include any nurses or nurse’s aides (i) who are on transportation duty, or (ii) who are managers or administrators of the nursing home facility, in each case where the

nurse is not providing direct patient care for the primary portion of his or her shift. “Direct patient care” refers to care of patients that is provided personally by the staff member, and includes but is not limited to treatment, counseling, self-care and medication administration, and a “primary portion” of a nursing shift is at least 6 hours of an 8 hour shift. This law defines “transportation duty” as “the responsibility of a nurse or nurse’s aide to accompany the resident while [the resident] is being transported to or from the nursing home facility.”

Under PA 19-89, on a daily basis at the beginning of each shift, a nursing home facility must post the following information:

1. Name of the nursing home facility;
2. Date;
3. Total number of Advanced Practice Registered Nurses, Registered Nurses, Licensed Practical Nurses, and nurse’s aides responsible for direct patient care during the shift;
4. Total number of hours each member of the nursing staff is scheduled to work during the shift;
5. Total number of residents;
6. The minimum number of direct care nursing staff per shift required by Connecticut Department of Public Health (DPH) regulations (in chronic and convalescent nursing homes, 7 am – 9 pm: 1.40 hours per patient, 9 pm – 7 am: 0.50 hours per patient, and for rest homes with nursing supervision: 7 am – 9 pm: 0.70 hours per patient, 9 pm – 7 am: 0.17 hours per patient); and
7. Telephone number or Internet website where a resident, employee, or visitor can report a suspected violation of these staffing requirements.

Under the new law, nursing home facilities must post the information conspicuously, in a legible format, so that it is visible and accessible for nursing home residents, employees, and visitors, including individuals in wheelchairs. Nursing home facilities must also make the daily posted information available for public review, on verbal or written request, and must retain daily nurse staffing information for at least 18 months.

Under the new law, if DPH finds that a nursing home facility substantially failed to comply with the state’s nursing home staffing level requirements, DPH may (i) take disciplinary action against the facility’s license, up to and including license revocation or suspension, or (ii) issue a written citation to the facility. Any such DPH citation must be prominently posted in the nursing home facility so as to be visible to patients, employees, and visitors, including individuals in wheelchairs.

Reinstatement after Retaliation

Currently, under Conn. Gen. Stat. § 19a-532, nursing home facilities and residential care homes are prohibited from discharging, or in any way discriminating or

retaliating against patients, relatives, guardians, conservators, or a sponsoring agency thereof, or against an employee or any other person, as a result of that person or entity filing a complaint, initiating any investigatory proceeding or testifying (or planning to testify) against any such facility or home, or exercising any other protected right afforded to such individual under state law. (PA 19-89 makes a technical change so that the law will use the term “residents” rather than “patients.”) Under § 19a-532, any nursing home facility or residential care home that violates this statute “shall be liable to the injured party for treble damages.”

PA 19-89 expands the current law to require reinstatement (of a terminated employee) or restoration of living conditions (of affected residents), if applicable. Specifically, in the event of prohibited retaliation against an employee, the employee is entitled to treble damages and the nursing home or residential care facility must also reinstate an employee if the employee was terminated from employment in retaliation. If a facility resident is affected by retaliation, the resident is entitled to treble damages and the nursing home or residential care facility must restore the resident to his or her living situation prior to such discrimination or retaliation. This includes restoring the resident to the previous housing arrangement or other living conditions within the nursing home or residential care facility as appropriate, if that living situation had been changed.

PA 19-89 defines “discriminate or retaliate” as used in the new Conn. Gen. Stat. § 19a-532 to include, but not be limited to, the discharge, demotion, suspension or any other detrimental change in terms or conditions of employment or residency, or the threat of any such action.

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