

106TH CONGRESS  
2D SESSION

# S. 3177

To require the Secretary of Health and Human Services to establish minimum nursing staff levels for nursing facilities, to provide for grants to improve the quality of care furnished in nursing facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 22), 2000

Mr. GRASSLEY (for himself, Mr. BREAUX, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require the Secretary of Health and Human Services to establish minimum nursing staff levels for nursing facilities, to provide for grants to improve the quality of care furnished in nursing facilities, and for other purposes.

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 “Nursing Home Staff  
5       Improvement Act of 2000”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1           (1) Part I of the Health Care Financing Ad-  
2           ministration's Report to Congress: Appropriateness  
3           of Minimum Nurse Staffing Ratios in Nursing  
4           Homes was completed in August of 2000 and  
5           showed the following:

6                   (A) Quality of care may be significantly  
7                   impaired when staffing thresholds fall below 2.0  
8                   nurse aide hours per resident day, 1.0 reg-  
9                   istered nurse and licensed practical nurse hours  
10                  per resident day and 0.45 registered nurse  
11                  hours per resident day.

12                  (B) Below this threshold, residents are  
13                  more likely to suffer life threatening illnesses  
14                  secondary to pressure sores, weight loss and  
15                  preventable infections, and rates of avoidable  
16                  hospitalization increase significantly.

17                  (C) Fifty-four percent of nursing home fa-  
18                  cilities do not provide 2.0 nurse aide hours per  
19                  resident day and approximately 1/2 of nursing  
20                  home facilities would require greater than a 10  
21                  percent change in staffing to meet this minimal  
22                  standard.

23                  (D) The 2.0 nurse aide hours per resident  
24                  day is a threshold below which residents lives

1           are at risk, not a standard for the provision of  
2           appropriate care.

3           (2)(A) A minimum of 2.9 nurse aide hours per  
4           resident day are necessary to deliver 5 necessary  
5           daily care services.

6           (B) Over 92 percent of nursing home facilities  
7           fall below the 2.9 nurse aide hours per resident day  
8           standard and would require a 50 percent increase in  
9           staffing to meet this standard.

10          (C) The 2.9 nurse aide hours per resident day  
11          standard is based on a conservative assumption and  
12          understates the real staffing levels necessary for a  
13          nurse aide to complete all tasks that constitute ade-  
14          quate care.

15          (3)(A) Facilities that serve residents with more  
16          complex medical conditions will require higher staff-  
17          ing levels.

18          (B) Minimum staffing levels that take into ac-  
19          count case mix have not yet been established.

20          (C) Part II of the Health Care Financing Ad-  
21          ministration report, which has not yet been com-  
22          pleted, will report to Congress on minimum staffing  
23          levels according to the facility's resident acuity level.

1 **SEC. 3. COMPLETION OF REPORT TO CONGRESS ON ADE-**  
 2 **QUATE NURSING FACILITY STAFFING RE-**  
 3 **QUIREMENTS.**

4 (a) IN GENERAL.—Section 4801(e)(17)(B) of the  
 5 Omnibus Budget Reconciliation Act of 1990 (42 U.S.C.  
 6 1396r note) is amended—

7 (1) by striking “January 1, 1999” and insert-  
 8 ing “July 1, 2001”;

9 (2) by inserting “and optimal minimum” after  
 10 “minimum” each place it appears;

11 (3) by striking the period and inserting a semi-  
 12 colon;

13 (4) by striking “such study recommendations”  
 14 and inserting “such study—

15 “(i) recommendations”; and

16 (5) by adding at the end the following:

17 “(ii) an examination of the cost and  
 18 benefits associated with establishing staff-  
 19 ing minimum and optimal minimum ratios;

20 “(iii) a description of the data used in  
 21 Phase II of the study to expand the multi-  
 22 variate analysis from 3 States to a more  
 23 representative national sample;

24 “(iv) an analysis of proposed refined  
 25 case mix classification methods considered  
 26 in Phase II of the study;

1 “(v) a description of the case studies  
 2 used to validate the Phase I findings of the  
 3 study; and

4 “(vi) an examination of other issues  
 5 that impact the recruitment and retention  
 6 of certified nursing assistants.”.

7 (b) EFFECTIVE DATE.—The amendments made by  
 8 subsection (a) take effect as if included in the enactment  
 9 of section 4801 of the Omnibus Budget Reconciliation Act  
 10 of 1990 (Public Law 101–508; 104 Stat. 1388–211).

11 **SEC. 4. ESTABLISHMENT OF APPROPRIATE MINIMUM**  
 12 **STAFFING REQUIREMENTS.**

13 (a) NOTICE OF PROPOSED RULEMAKING.—Not later  
 14 than 6 months after the date that the Secretary of Health  
 15 and Human Services (in this section referred to as the  
 16 “Secretary”) submits the report to Congress required  
 17 under section 4801(e)(17)(B) of the Omnibus Budget  
 18 Reconciliation Act of 1990 (42 U.S.C. 1396r note) regard-  
 19 ing the study of establishing appropriate minimum care-  
 20 giver to resident levels and appropriate minimum super-  
 21 visor to caregiver levels for skilled nursing facilities par-  
 22 ticipating as providers of services under the medicare pro-  
 23 gram under title XVIII of the Social Security Act (42  
 24 U.S.C. 1395 et seq.) and nursing facilities receiving pay-  
 25 ments under the medicaid program under title XIX of

1 such Act (42 U.S.C. 1396 et seq.) that includes rec-  
2 ommendations regarding appropriate minimums for such  
3 levels, the Secretary shall issue a notice of proposed rule-  
4 making with respect to the promulgation of a final regula-  
5 tion requiring compliance with appropriate minimum care-  
6 giver to resident levels and appropriate minimum super-  
7 visor to caregiver levels as a condition for such facilities  
8 to receive payments under such programs.

9 (b) FINAL REGULATION.—Not later than 6 months  
10 after the issuance of the notice required under subsection  
11 (a), the Secretary shall issue the final regulation (to be  
12 effective upon publication) that was the subject of such  
13 notice.

14 (c) DEFINITION OF APPROPRIATE.—In this section,  
15 the term “appropriate” means the staffing threshold level  
16 required to attain a good or optimal quality outcome with  
17 respect to a resident of a skilled nursing facility partici-  
18 pating as a provider of services under the medicare pro-  
19 gram under title XVIII of the Social Security Act (42  
20 U.S.C. 1395 et seq.) or of a nursing facility receiving pay-  
21 ments under the medicaid program under title XIX of  
22 such Act (42 U.S.C. 1396 et seq.), as opposed to avoiding  
23 a bad outcome with respect to such a resident.

1 **SEC. 5. GRANTS TO IMPROVE STAFFING LEVELS AND THE**  
2 **QUALITY OF CARE IN NURSING FACILITIES.**

3 (a) **AUTHORITY TO AWARD GRANTS.**—The Secretary  
4 of Health and Human Services shall award grants to  
5 States on a competitive basis for the purpose of improving  
6 staffing levels in nursing facilities in order to improve the  
7 quality of care to residents of such facilities.

8 (b) **APPLICATIONS.**—Each State that wishes to re-  
9 ceive a grant under this section shall submit an application  
10 at such time, in such form, and complete with such infor-  
11 mation as the Secretary may require, except that any such  
12 application shall include at least a certification that the  
13 application was developed through an open, public process.

14 (c) **REQUIREMENTS FOR USE OF FUNDS.**—

15 (1) **PERMISSIBLE USES.**—

16 (A) **IN GENERAL.**—A State awarded a  
17 grant under this section shall use funds pro-  
18 vided under the grant to provide financial sup-  
19 port or technical assistance for projects oper-  
20 ated by nursing facilities, labor organizations,  
21 nonprofit organizations, community colleges, or  
22 other organizations, or through joint efforts of  
23 such entities and organizations, that are de-  
24 signed to do any or all of the following:

25 (i) Enhance staff recruitment and re-  
26 tention efforts.

1 (ii) Establish centers of expertise and  
2 training.

3 (iii) Establish career ladders for cer-  
4 tified nurse assistants, including additional  
5 or advanced training opportunities.

6 (iv) Provide additional training for  
7 nursing facility direct care staff.

8 (v) Improve workplace safety.

9 (vi) Improve nursing facility manage-  
10 ment.

11 (vii) Conduct other staffing initiatives  
12 to improve patient outcomes, as approved  
13 by the Secretary.

14 (B) APPLICABILITY OF NURSING HOME RE-  
15 FORM PROVISIONS.—Funds made available  
16 under a grant awarded to a State under this  
17 section may only be used to provide financial  
18 support or technical assistance for any project  
19 described in subparagraph (A) to the extent  
20 that the activities conducted under the project  
21 are consistent with the requirements of sections  
22 1818 and 1919 of the Social Security Act (42  
23 U.S.C. 1395i–3, 1396r).

24 (C) PROHIBITION.—No funds made avail-  
25 able under a grant awarded to a State under



1           this section may be used to provide financial  
 2           support or technical assistance for any project  
 3           described in subparagraph (A) that is con-  
 4           ducted at, or for the benefit of, a nursing facil-  
 5           ity that is owned or operated by a State, coun-  
 6           ty, or local government.

7           (2) NO SUPPLANTATION OF FUNDS.—Funds  
 8           made available under a grant awarded to a State  
 9           under this section may only be used to supplement,  
 10          not supplant, other funds that the State expends to  
 11          carry out activities described in paragraph (1)(A).

12          (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 13          are authorized to be appropriated to the Secretary for pur-  
 14          poses of carrying out this section \$500,000,000 for each  
 15          of fiscal years 2001 and 2002. Funds appropriated in ac-  
 16          cordance with this subsection for a fiscal year shall remain  
 17          available through the end of the succeeding fiscal year.

18          (e) REPORTS AND SECRETARIAL EVALUATION.—

19               (1) STATE FINAL REPORTS.—Each State that  
 20               is awarded a grant under this section shall submit  
 21               a final report to the Secretary on the use of funds  
 22               awarded under the grant not later than 3 months  
 23               after the earlier of—

24                       (A) the completion of the project or  
 25                       projects provided financial support or technical

1 assistance with funds received under the grant;  
2 or

3 (B) the conclusion of the 2-year period  
4 that begins on the date that the State receives  
5 such grant funds.

6 (2) SECRETARIAL EVALUATION AND REPORT.—

7 Not later than 6 months after the final State report  
8 is submitted to the Secretary under paragraph (1),  
9 the Secretary shall submit to Congress a report eval-  
10 uating the extent to which the grant program estab-  
11 lished under this section assists States in improving  
12 staffing levels in nursing facilities.

13 (f) DEFINITIONS.—In this section:

14 (1) NURSING FACILITY.—The term “nursing  
15 facility” means a skilled nursing facility partici-  
16 pating in the medicare program established under  
17 title XVIII of the Social Security Act (42 U.S.C.  
18 1395 et seq.) or a nursing facility receiving pay-  
19 ments under the medicaid program established  
20 under title XIX of such Act (42 U.S.C. 1396 et  
21 seq.).

22 (2) SECRETARY.—The term “Secretary” means  
23 the Secretary of Health and Human Services.

1 **SEC. 6. PROVIDING ACCURATE INFORMATION ON STAFF-**  
2 **ING.**

3 (a) MEDICARE.—

4 (1) DATA ON STAFFING LEVELS.—Section  
5 1819(b) of the Social Security Act (42 U.S.C.  
6 1395i–3(b)) is amended by adding at the end the  
7 following new paragraph:

8 “(8) SUBMISSION OF DATA ON STAFFING LEV-  
9 ELS.—

10 “(A) IN GENERAL.—A skilled nursing fa-  
11 cility shall submit to the Secretary, at such  
12 time as the Secretary shall specify and on a  
13 standard reporting format developed by the  
14 Secretary, data with respect to nursing staff  
15 that—

16 “(i) includes the total number of nurs-  
17 ing staff hours and coverage levels per  
18 shift furnished by the facility to residents  
19 for which payment is made under section  
20 1888(e), broken down by total certified  
21 nurse aide hours, total licensed practical or  
22 vocational nurse hours, and total registered  
23 nurse hours; and

24 “(ii) is attested to in writing by the  
25 facility as accurate.

1           “(B) PUBLICATION OF DATA.—The Sec-  
 2           retary shall provide for the publication on the  
 3           Internet Site of the Department of Health and  
 4           Human Services known as Nursing Home Com-  
 5           pare the facility-specific nursing staff informa-  
 6           tion described in subparagraph (A). The Sec-  
 7           retary shall update such information periodi-  
 8           cally.”.

9           (2) INFORMATION CONCERNING PATIENT CLAS-  
 10          SIFICATION.—Section 1819(b)(4) of the Social Secu-  
 11          rity Act (42 U.S.C. 1395i–3(b)(4)) is amended by  
 12          adding at the end the following new subparagraph:

13           “(D) INFORMATION CONCERNING RESI-  
 14          DENTS.—The skilled nursing facility shall pro-  
 15          vide the Secretary, in such form and manner  
 16          and at such intervals as the Secretary may re-  
 17          quire, a classification of all residents of the  
 18          skilled nursing facility that accords with the  
 19          resident classification system described in sec-  
 20          tion 1888(e)(4)(G)(i), or such successor system  
 21          as the Secretary may identify.”.

22          (b) MEDICAID.—

23           (1) DATA ON STAFFING LEVELS.—Section  
 24          1919(b) of the Social Security Act (42 U.S.C.

1       1396r(b)) is amended by adding at the end the fol-  
 2       lowing new paragraph:

3               “(8) SUBMISSION OF DATA ON STAFFING LEV-  
 4       ELS.—

5               “(A) IN GENERAL.—A nursing facility  
 6       shall submit to the Secretary, at such time as  
 7       the Secretary shall specify and on a standard  
 8       reporting format developed by the Secretary,  
 9       data with respect to nursing staff that—

10              “(i) includes the total number of nurs-  
 11       ing staff hours and coverage levels per  
 12       shift furnished by the facility to residents  
 13       for which payment is made under the State  
 14       plan, broken down by total certified nurse  
 15       aide hours, total licensed practical or voca-  
 16       tional nurse hours, and total registered  
 17       nurse hours; and

18              “(ii) is attested to in writing by the  
 19       facility as accurate.

20              “(B) PUBLICATION OF DATA.—The Sec-  
 21       retary shall provide for the publication on the  
 22       Internet Site of the Department of Health and  
 23       Human Services known as Nursing Home Com-  
 24       pare the facility-specific nursing staff informa-  
 25       tion described in subparagraph (A). The Sec-

1           retary shall update such information periodi-  
2           cally.”.

3           (2) INFORMATION CONCERNING PATIENT CLAS-  
4           SIFICATION.—Section 1919(b)(4) of the Social Secu-  
5           rity Act (42 U.S.C. 1395r(b)(4)) is amended by add-  
6           ing at the end the following new subparagraph:

7                   “(D) INFORMATION CONCERNING RESI-  
8           DENTS.—The nursing facility shall provide the  
9           Secretary, in such form and manner and at  
10          such intervals as the Secretary may require, a  
11          classification of all residents of the nursing fa-  
12          cility that accords with the resident classifica-  
13          tion system described in section  
14          1888(e)(4)(G)(i), or such successor system as  
15          the Secretary may identify.”.

16 **SEC. 7. INFORMATION ON NURSING FACILITY STAFFING.**

17          (a) MEDICARE AMENDMENTS.—Section 1819(b) of  
18          the Social Security Act (42 U.S.C. 1395i–3(b)), as amend-  
19          ed by section 6(a), is further amended by adding at the  
20          end the following new paragraph:

21                   “(9) INFORMATION ON NURSE STAFFING.—A  
22          skilled nursing facility shall post daily for each nurs-  
23          ing unit of the facility and for each shift the current  
24          number of licensed and unlicensed nursing staff di-  
25          rectly responsible for resident care and the number

1 of residents per unit and per shift. The information  
2 shall be displayed in a uniform manner and in a  
3 clearly visible place.”.

4 (b) MEDICAID AMENDMENTS.—Section 1919(b) of  
5 the Social Security Act (42 U.S.C. 1396r(b)), as amended  
6 by section 6(b), is amended by adding at the end the fol-  
7 lowing new paragraph:

8 “(9) INFORMATION ON NURSE STAFFING.—A  
9 nursing facility shall post daily for each nursing unit  
10 of the facility and for each shift the current number  
11 of licensed and unlicensed nursing staff directly re-  
12 sponsible for resident care and the number of resi-  
13 dents per unit and per shift. The information shall  
14 be displayed in a uniform manner and in a clearly  
15 visible place.”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section take effect on the first day of the first month  
18 that begins at least 6 months after the date of the enact-  
19 ment of this Act.

○