



Office of the
State Long-Term Care Ombudsman
1300 National Drive, Suite 200
Sacramento, California 95834-1995
916-419-7510 Voice
916-928-2503 Facsimile
800-231-4024 CRISISline
<http://www.aging.ca.gov>

The State Long-Term Care Ombudsman is an independent advocate located within the California Department of Aging. Points of view, opinions or positions of the State Long-Term Care Ombudsman do not necessarily represent the views, positions or policy of the California Department of Aging.

August 22, 2017

Scott Vivona, Assistant Deputy Director
Center for Health Care Quality

Chelsea Driscoll, Chief
Policy and Enforcement Branch
California Department of Public Health
MS 3203, P.O. Box 997377
Sacramento, California 95899-7377

RE: Implementing Senate Bill (SB) 97 Amendments to Minimum
Staffing Requirements for Skilled Nursing Facilities

Dear Mr. Vivona and Ms. Driscoll:

Thank you for meeting with us on August 16, 2017 for our regularly scheduled quarterly conference call between the Center for Health Care Quality and the Office of the State Long-Term Care Ombudsman. During this call, you requested comments from us on the SB 97 amendments to the minimum staffing requirements for skilled nursing facilities (SNFs). Please find below some comments for your consideration.

The Office is concerned that the new minimum required hours for certified nursing assistants (2.4 hours, per resident day) will reduce the hours of licensed nurse staffing in SNFs. We believe that the current licensed nursing time dedicated to resident care is already inadequate and would not want to see a reduction in this nursing care for residents. We encourage the Department to establish a meaningful staff-to-resident ratio for direct caregivers and licensed nurses that promotes quality care and safety for residents across all shifts.

The Office has grave concerns about the use of nursing assistant trainees as direct caregivers to count toward the increase in the minimum staffing requirement. We see the potential for harm to residents if this provision of SB 97 is implemented. Residents have complex conditions that require well-trained and certified staff to provide care. The Office strongly encourages the Department to seek trailer bill legislation to repeal this dangerous provision of SB 97.

We are also troubled by the ability of skilled nursing facilities to seek waivers to comply with staffing requirements. We recommend that the Department only grant waivers on a temporary basis, e.g., three months, and that when approving a waiver, the Department place a prohibition on new admissions until staffing meets the required minimum levels. In addition, a waiver should never allow staffing to fall below the currently required 3.2 hours. Facilities should not be allowed to understaff their facilities and continue to accept new patients or residents. That would only make matters worse for all persons receiving care.

Scott Vivona
Chelsea Driscoll
August 22, 2017
Page 2

Thank you for considering these recommendations about implementing these amendments. The Office hopes the Department will stand firm in protecting residents and promoting the best possible care for residents. Please let me know if you have any questions or would like to discuss these recommendations in greater detail.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JR', is positioned above the typed name.

Joseph Rodrigues
State Long-Term Care Ombudsman