

## 42 CFR 483.30

This section is current through the March 20, 2014 issue of the Federal Register

**Code of Federal Regulations > TITLE 42-- PUBLIC HEALTH > CHAPTER IV-- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES > SUBCHAPTER G-- STANDARDS AND CERTIFICATION > PART 483-- REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES > SUBPART B-- REQUIREMENTS FOR LONG TERM CARE FACILITIES**

**§ 483.30 Nursing services.**

The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

- (a) Sufficient staff. (1) The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:
  - (i) Except when waived under paragraph (c) of this section, licensed nurses; and
  - (ii) Other nursing personnel.
    - (2) Except when waived under paragraph (c) of this section, the facility must designate a licensed nurse to serve as a charge nurse on each tour of duty.
- (b) Registered nurse.
  - (1) Except when waived under paragraph (c) or (d) of this section, the facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
  - (2) Except when waived under paragraph (c) or (d) of this section, the facility must designate a registered nurse to serve as the director of nursing on a full time basis.
  - (3) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.
- (c) Nursing facilities: Waiver of requirement to provide licensed nurses on a 24-hour basis. To the extent that a facility is unable to meet the requirements of paragraphs (a)(2) and (b)(1) of this section, a State may waive such requirements with respect to the facility if --
  - (1) The facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel;
  - (2) The State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility;
  - (3) The State finds that, for any periods in which licensed nursing services are not available, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility;
  - (4) A waiver granted under the conditions listed in paragraph (c) of this section is subject to annual State review;
  - (5) In granting or renewing a waiver, a facility may be required by the State to use

other qualified, licensed personnel;

- (6) The State agency granting a waiver of such requirements provides notice of the waiver to the State long term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and mentally retarded; and
  - (7) The nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.
- (d) SNFs: Waiver of the requirement to provide services of a registered nurse for more than 40 hours a week.
- (1) The Secretary may waive the requirement that a SNF provide the services of a registered nurse for more than 40 hours a week, including a director of nursing specified in paragraph (b) of this section, if the Secretary finds that --
    - (i) The facility is located in a rural area and the supply of skilled nursing facility services in the area is not sufficient to meet the needs of individuals residing in the area;
    - (ii) The facility has one full-time registered nurse who is regularly on duty at the facility 40 hours a week; and
    - (iii) The facility either --
      - (A) Has only patients whose physicians have indicated (through physicians' orders or admission notes) that they do not require the services of a registered nurse or a physician for a 48-hours period, or
      - (B) Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide necessary skilled nursing services on days when the regular full-time registered nurse is not on duty;
    - (iv) The Secretary provides notice of the waiver to the State long term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and mentally retarded; and
    - (v) The facility that is granted such a waiver notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.
  - (2) A waiver of the registered nurse requirement under paragraph (d)(1) of this section is subject to annual renewal by the Secretary.
- (e) Nurse staffing information -- (1) Data requirements. The facility must post the following information on a daily basis:
- (i) Facility name.
  - (ii) The current date.
  - (iii) The total number and the actual hours worked by the following categories of licensed and unlicensed nursing staff directly responsible for resident care per

shift:

- (A) Registered nurses.
  - (B) Licensed practical nurses or licensed vocational nurses (as defined under State law).
  - (C) Certified nurse aides.
- (iv) Resident census.
- (2) **Posting requirements.**
- (i) The facility must post the nurse staffing data specified in paragraph (e)(1) of this section on a daily basis at the beginning of each shift.
  - (ii) Data must be posted as follows:
    - (A) Clear and readable format.
    - (B) In a prominent place readily accessible to residents and visitors.
- (3) Public access to posted nurse staffing data. The facility must, upon oral or written request, make nurse staffing data available to the public for review at a cost not to exceed the community standard.
- (4) Facility data retention requirements. The facility must maintain the posted daily nurse staffing data for a minimum of 18 months, or as required by State law, whichever is greater.

<b>Statutory Authority</b>
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**AUTHORITY NOTE APPLICABLE TO ENTIRE PART:**

Secs. 1102, 1128I and 1871 of the Social Security Act ([42 U.S.C. 1302](#), 1320a-7j, and 1395hh).

<b>History</b>
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[56 FR 48873, Sept. 26, 1991, as amended at [57 FR 43925](#), Sept. 23, 1992; [70 FR 62065, 62073](#), Oct. 28, 2005]

**Annotations**

<b>Notes</b>
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**[EFFECTIVE DATE NOTE:**

[70 FR 62065, 62073](#), Oct. 28, 2005, added paragraph (e), effective Dec. 27, 2005.]

<b>Case Notes</b>
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**LexisNexis® Notes**

Case Notes Applicable to Entire Part

Healthcare Law : Actions Against Facilities : Facility Liability : Nursing Facilities

Healthcare Law : Business Administration & Organization : Licenses : General Overview

Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

Public Health & Welfare Law : Social Security : Medicare : Providers : Types : Nursing Facilities

## Case Notes Applicable to Entire Part

### [Part Note](#)

#### Healthcare Law : Actions Against Facilities : Facility Liability : Nursing Facilities

[United States Ex Rel. Swan v. Covenant Care, Inc., 279 F. Supp. 2d 1212, 2002 U.S. Dist. LEXIS 26867](#) (ED Cal Aug. 5, 2002).

**Overview:** *Where essential elements of nursing home reform advocate's qui tam claim were disclosed in a prior lawsuit, and the advocate was not an original source of those disclosures, the court lacked subject matter jurisdiction over her False Claims Act suit.*

- The operation of skilled nursing facilities is governed by a comprehensive set of highly detailed and specific Medicare regulations. For example, skilled nursing facilities must formulate a written plan of care for each Medicare resident to ensure that the resident's activities of daily living are maintained and that a resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene. [42 C.F.R. § 483.25\(a\)\(2\) \(2001\)](#). In addition, the skilled nursing facility must have sufficient nursing staff to provide nursing and related services to attain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by the resident's individual plan of care and maintain accurate and complete medical records for each resident in accordance with accepted professional standards and practices. [42 C.F.R. §§ 483.30, 483.75\(1\) \(2001\)](#). [Go To Headnote](#)

#### Healthcare Law : Business Administration & Organization : Licenses : General Overview

[Akers v. Kindred Nursing Ctrs. Ltd. P'ship., 2004 U.S. Dist. LEXIS 13957](#) (SD Ind May 18, 2004).

**Overview:** *A nurse's claim that she was fired in retaliation for reporting insufficient staffing to her employer, as required by law, survived a motion to dismiss because the public policy exception applied, even though she was only exposed to civil liability.*

- The U.S. Department of Health and Human Services' Requirements for Long Term Care Facilities mandates that a facility must have sufficient nursing staff to provide nursing and related services to attain the highest practicable physical, mental and psychological well-being of each resident. [42 C.F.R. § 483.30](#). [Go To Headnote](#)

#### Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

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facility must have sufficient nursing staff to provide nursing and related services to attain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by the resident's individual plan of care and maintain accurate and complete medical records for each resident in accordance with accepted professional standards and practices. [42 C.F.R. §§ 483.30, 483.75\(1\) \(2001\)](#). *Go To Headnote*

## Public Health & Welfare Law : Social Security : Medicare : Providers : Types : Nursing Facilities

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<b>Research References &amp; Practice Aids</b>
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### NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at [45 FR 53806](#), Aug. 13, 1980; [50 FR 12741](#), Mar. 29, 1985; [50 FR 33034](#), Aug. 16, 1985; [51 FR 41338](#), Nov. 14, 1986; [53 FR 6634](#), Mar. 2, 1988; [53 FR 47201](#), Nov. 22, 1988; [56 FR 8852](#), Mar. 1, 1991; [66 FR 39450, 39452](#), July 31, 2001; [67 FR 36539, 36540](#), May 24, 2002; [77 FR 29002, 29028](#), May 16, 2012.]

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