Nursing Home Association Sues New Jersey DOH to Void Minimum Staffing Requirements



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The Health Care Association of New Jersey (HCA), a trade group representing New Jersey nursing homes, together with several nursing homes recently filed a lawsuit against the New Jersey Department of Health seeking to void a 2020 New Jersey law that sets minimum staffing requirements for New Jersey nursing homes, arguing that staffing shortages make the law an "unworkable and impossible mandate." The law requires New Jersey licensed nursing homes to maintain certain staff to resident ratios for both day and night shifts. The law was adopted in response to the COVID-19 pandemic, during which New Jersey nursing homes saw high death tolls and infection rates. The HCA's lawsuit seeks to void and delay enforcement of the staffing ratio law on the grounds that it is unconstitutional and impossible for nursing homes to comply with. The HCA claims that the fines being assessed by the DOH for failure to comply, which by statute amounts to $1,000.00 per day of noncompliance, are excessive and violate the New Jersey Constitution.

The HCA also argues that the law was adopted notwithstanding a State study that found that New Jersey's direct care workforce is shrinking and cannot meet the needs of the State's growing elderly population. According to the HCA, the number of people willing to work in nursing homes has declined by almost fifteen percent since the onset of the COVID-19 pandemic, resulting in a lack of enough available Certified Nursing Aides to make compliance with the staffing law possible. In addition to the lack of available practitioners, New Jersey nursing homes are also faced with a rapid increase in the number of individuals over the age of 65 coupled with increased expenses, with no corresponding increase in Medicaid reimbursement.

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