

105TH CONGRESS  
2D SESSION

# H. R. 4804

To amend titles XI, XVIII, and XIX of the Social Security Act to permit paid staff other than nurse aides and licensed health professionals to provide feeding and hydration assistance to residents in nursing facilities participating in the Medicare and Medicaid Programs and to provide special training requirements for such staff, and to establish a program to ensure that such facilities do not employ individuals who have a history of patient or resident abuse or have been convicted of certain crimes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 1998

Mr. TOWNS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles XI, XVIII, and XIX of the Social Security Act to permit paid staff other than nurse aides and licensed health professionals to provide feeding and hydration assistance to residents in nursing facilities participating in the Medicare and Medicaid Programs and to provide special training requirements for such staff, and to establish a program to ensure that such facilities do not employ individuals who have a history of patient or resident abuse or have been convicted of certain crimes.

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 “Long-Term Care Pa-  
5       tient Protection Act of 1998”.

6       **SEC. 2. SPECIAL REQUIREMENTS FOR INDIVIDUALS PRO-**  
7                       **VIDING FEEDING AND HYDRATION ASSIST-**  
8                       **ANCE TO NURSING FACILITY RESIDENTS AND**  
9                       **SKILLED NURSING FACILITY PATIENTS.**

10       (a) MEDICAID PROGRAM.—Section 1919 of the Social  
11       Security Act (42 U.S.C. 1396r) is amended—

12               (1) in subsection (b)—

13                       (A) in paragraph (5)(F)—

14                               (i) by striking “or” at the end of  
15                               clause (i);

16                               (ii) by striking the period at the end  
17                               of clause (ii) and inserting “, or”; and

18                               (iii) by adding at the end the follow-  
19                               ing new clause:

20                                       “(iii) who is a feeding and hydration  
21                               assistant (as defined in paragraph  
22                               (8)(B)).”; and

23                       (B) by adding at the end the following new  
24       paragraph:

1           “(8) REQUIRED TRAINING OF FEEDING AND  
2       HYDRATION ASSISTANTS.—

3           “(A) IN GENERAL.—A nursing facility  
4       must not use on a full-time or other paid basis  
5       any individual as a feeding and hydration as-  
6       sistant in the facility unless the individual—

7           “(i) has completed a feeding and hy-  
8       dration assistance training and competency  
9       evaluation program approved by the State  
10      under subsection (e)(8), and

11          “(ii) is competent to provide feeding  
12      and hydration services.

13          “(B) FEEDING AND HYDRATION ASSIST-  
14      ANT DEFINED.—In this paragraph, the term  
15      ‘feeding and hydration assistant’ means any in-  
16      dividual who assists residents in a nursing facil-  
17      ity to eat or drink but does not otherwise pro-  
18      vide any nursing or nursing-related services to  
19      such residents, but does not include an individ-  
20      ual who—

21          “(i) is a licensed health professional  
22      (as defined in paragraph (5)(G)) or a reg-  
23      istered dietitian,

24          “(ii) volunteers to provide such serv-  
25      ices without monetary compensation, or

1 “(iii) is a nurse aide (as defined in  
2 paragraph (5)(F), but without applying  
3 clause (iii) thereof).”;

4 (2) in subsection (e), by adding at the end the  
5 following new paragraph:

6 “(8) SPECIFICATION AND REVIEW OF FEEDING  
7 AND HYDRATION ASSISTANCE TRAINING AND COM-  
8 PETENCY EVALUATION PROGRAMS.—The State  
9 must—

10 “(A) specify those training and competency  
11 evaluation programs that the State approves for  
12 purposes of subsection (b)(8) and that meet the  
13 requirements established under subsection  
14 (f)(10), which shall at a minimum include  
15 training concerning—

16 “(i) recommended amounts of food  
17 and hydration,

18 “(ii) methods of providing food and  
19 hydration, and

20 “(iii) recognition of symptoms of mal-  
21 nutrition and dehydration; and

22 “(B) provide for the review and reapproval  
23 of such programs, at a frequency and using a  
24 methodology consistent with the requirements  
25 established under subsection (f)(10)(B).

1 The failure of the Secretary to establish require-  
2 ments under subsection (f)(10) shall not relieve any  
3 State of its responsibility under this paragraph.”;  
4 and

5 (3) in subsection (f), by adding at the end the  
6 following new paragraph:

7 “(10) REQUIREMENTS FOR FEEDING AND HY-  
8 DRATION ASSISTANCE TRAINING AND EVALUATION  
9 PROGRAMS.—For purposes of subsections (b)(8) and  
10 (e)(8), the Secretary shall establish—

11 “(A) requirements for the approval of feed-  
12 ing and hydration assistance training and com-  
13 petency evaluation programs; and

14 “(B) requirements respecting the minimum  
15 frequency and methodology to be used by a  
16 State in reviewing such programs’ compliance  
17 with the requirements for such programs.”.

18 (b) MEDICARE PROGRAM.—Section 1819 of such Act  
19 (42 U.S.C. 1395i–3) is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (5)(F)—

22 (i) by striking “or” at the end of  
23 clause (i);

24 (ii) by striking the period at the end  
25 of clause (ii) and inserting “, or”; and

1 (iii) by adding at the end the follow-  
 2 ing new clause:

3 “(iii) who is a feeding and hydration  
 4 assistant (as defined in paragraph  
 5 (8)(B)).”; and

6 (B) by adding at the end the following new  
 7 paragraph:

8 “(8) REQUIRED TRAINING OF FEEDING AND  
 9 HYDRATION ASSISTANTS.—

10 “(A) IN GENERAL.—A skilled nursing fa-  
 11 cility must not use on a full-time or other paid  
 12 basis any individual as a feeding and hydration  
 13 assistant in the facility unless the individual—

14 “(i) has completed a feeding and hy-  
 15 dration assistance training and competency  
 16 evaluation program approved by the State  
 17 under subsection (e)(6), and

18 “(ii) is competent to provide feeding  
 19 and hydration services.

20 “(B) FEEDING AND HYDRATION ASSIST-  
 21 ANT DEFINED.—In this paragraph, the term  
 22 ‘feeding and hydration assistant’ means any in-  
 23 dividual that assists residents in a skilled nurs-  
 24 ing facility to eat or drink but does not other-  
 25 wise provide any nursing or nursing-related

1 services to such residents, but does not include  
2 an individual—

3 “(i) is a licensed health professional  
4 (as defined in paragraph (5)(G)) or a reg-  
5 istered dietitian,

6 “(ii) volunteers to provide such serv-  
7 ices without monetary compensation, or

8 “(iii) is a nurse aide (as defined in  
9 paragraph (5)(F), but without applying  
10 clause (iii) thereof).”;

11 (2) in subsection (e), by adding at the end the  
12 following new paragraph:

13 “(6) SPECIFICATION AND REVIEW OF FEEDING  
14 AND HYDRATION ASSISTANCE TRAINING AND COM-  
15 PETENCY EVALUATION PROGRAMS.—The State  
16 must—

17 “(A) specify those training and competency  
18 evaluation programs that the State approves for  
19 purposes of subsection (b)(8) and that meet the  
20 requirements established under subsection  
21 (f)(8), which shall, at a minimum, include  
22 training concerning—

23 “(i) recommended amounts of food  
24 and hydration,

1 “(ii) methods of providing food and  
2 hydration, and

3 “(iii) recognition of symptoms of mal-  
4 nutrition and dehydration; and

5 “(B) provide for the review and reapproval  
6 of such programs, at a frequency and using a  
7 methodology consistent with the requirements  
8 established under subsection (f)(8)(B).

9 The failure of the Secretary to establish require-  
10 ments under subsection (f)(8) shall not relieve any  
11 State of its responsibility under this paragraph.”;  
12 and

13 (3) in subsection (f), by adding at the end the  
14 following new paragraph:

15 “(8) REQUIREMENTS FOR FEEDING AND HY-  
16 DRATION ASSISTANCE TRAINING AND EVALUATION  
17 PROGRAMS.—For purposes of subsections (b)(8) and  
18 (e)(6), the Secretary shall establish—

19 “(A) requirements for the approval of feed-  
20 ing and hydration assistance training and com-  
21 petency evaluation programs; and

22 “(B) requirements respecting the minimum  
23 frequency and methodology to be used by a



- 1 State in reviewing such programs' compliance
- 2 with the requirements for such programs.'".

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