

54 N.J.R. 364(a)

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RULE ADOPTIONS

Reporter

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Agency

LABOR AND WORKFORCE DEVELOPMENT > DIVISION OF WAGE AND HOUR COMPLIANCE

Administrative Code Citation

Adopted Amendments: N.J.A.C. 12:56-2.1 and 3.1

Adopted New Rule: N.J.A.C. 12:56-3.7

Text

Minimum Wage; Long-Term Care Facility Direct Care Staff Members

Proposed: February 1, 2021, at 53 N.J.R. 155(a).

Adopted: January 20, 2022, by Robert Asaro-Angelo, Commissioner, Department of **Labor and Workforce Development**.

Filed: January 20, 2022, as R.2022 d.026, **without change**.

Authority: N.J.S.A. 34:11-56a5.

Effective Date: February 22, 2022.

Expiration Date: June 29, 2025.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Analysis

Section 6 of the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206, contains a minimum hourly wage rate of \$ 7.25 per hour, effective July 24, 2009, with no scheduled adjustments, annual or otherwise; whereas N.J.A.C. 12:56-3.7, as adopted, contains a minimum hourly wage rate for long-term care facility direct care staff members in the State of New Jersey, effective November 1, 2020, of \$ 14.00 per hour, with annual increases of \$ 1.00 per hour until January 1, 2024, when the State minimum wage for such direct care workers would be at least \$ 18.00 per

hour. The existence of a minimum hourly wage rate in New Jersey that exceeds the Federal minimum hourly wage rate will most certainly have an economic impact on all of the citizens of this State, whether those citizens are minimum wage earners who will receive a pay raise, business owners who will be required to pay the increased State minimum hourly wage to their employees, or citizens of the State who are neither minimum wage earners, nor business owners, who will be impacted in one way or another (whether positively or negatively) by the existence of a State minimum hourly wage. However, the Department has no discretion to deviate from P.L. 2020, c. 89, which, effective November 1, 2020, increased the State minimum hourly wage rate for long-term care facility direct care staff members to \$ 14.00 per hour and requires that the rate be increased again on January 1, 2021, to \$ 15.00 per hour, and again on January 1 of each year for three years thereafter. It will reach \$ 18.00 per hour no later than 2024.

Full text of the adoption follows:

SUBCHAPTER 2. DEFINITIONS

12:56-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...

"Long-term care facility" means "long-term care facility" as that term is defined at N.J.S.A. 26:2H-12.87.

"Long-term care facility direct care staff member" means any health care professional licensed or certified pursuant to Title 26 or Title 45 of the Revised Statutes who is employed by a long-term care facility and who provides personal care, assistance, or treatment services directly to residents of the facility in the course of the professional's regular duties.

...

SUBCHAPTER 3. MINIMUM WAGE RATES

12:56-3.1 Statutory minimum wage rates for specific years; general

(a) Except as provided at N.J.A.C. 12:56-3.2, 3.3, 3.4, 3.5, and 3.7, every employee shall, effective January 1, 2021, be paid not less than [page=365] \$ 12.00 per hour or the minimum wage rate set by section 6(a)(1) of the Federal "Fair Labor Standards Act of 1938" (29 U.S.C. § 206(a)(1)), whichever is greater.

(b)-(d) (No change.)

12:56-3.7 Statutory minimum wage rate; long-term care facility direct care staff members

Commencing November 1, 2020, an employee who is a long-term care facility direct care staff member shall be paid a minimum hourly wage rate that is not less than \$ 3.00 in excess of the minimum hourly wage specified at N.J.A.C. 12:56-3.1.

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