

ASSEMBLY, No. 244

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

SYNOPSIS

Requires hospitals to establish nurse staffing committees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning nurse staffing committees at hospitals and
2 supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that:

8 a. The State of New Jersey has a substantial interest in
9 promoting quality care and improving the delivery of health care
10 services;

11 b. Evidenced-based studies have shown that adequate nurse
12 staffing based on research findings and the intensity of patient care
13 is directly related to positive patient outcomes, such as reducing
14 errors and complications;

15 c. Appropriate staffing of hospital personnel, including
16 registered nurses, can also improve staff safety and satisfaction, and
17 reduce incidences of workplace injuries;

18 d. Hospitals and nurses share a mutual interest in patient safety
19 initiatives that create a healthy environment for nurses and
20 appropriate care for patients; and

21 e. In order to protect patients, support greater retention of
22 registered nurses, and promote adequate nurse staffing, it is in the
23 State's interest to establish a mechanism whereby nurses and
24 hospital management shall participate in a joint process regarding
25 decisions about nurse staffing.

26

27 2. As used in this act:

28 "Hospital" means a hospital that is licensed pursuant to P.L.1971,
29 c.136 (C.26:2H-1 et seq.).

30 "Intensity" means the level of patient need for nursing care, as
31 determined by the nursing assessment.

32 "Nursing personnel" means registered nurses, licensed practical
33 nurses, and unlicensed assistive nursing personnel providing direct
34 patient care.

35 "Nurse staffing committee" means the committee established by a
36 hospital pursuant to section 3 of this act.

37 "Patient care unit" means any unit or area of the hospital that
38 provides patient care by registered nurses.

39 "Skill mix" means the number and relative percentages of registered
40 nurses, licensed practical nurses, and unlicensed assistive personnel
41 among the total number of nursing personnel.

42 "Unforeseeable emergency circumstance" means any unforeseen
43 national, State, or municipal emergency; when a hospital disaster plan
44 is activated; any unforeseen disaster or other catastrophic event that
45 substantially affects or increases the need for health care services; or
46 when a hospital is diverting patients to another hospital or hospitals for
47 treatment or the hospital is receiving patients who are from another
48 hospital or hospitals.

1 3. a. The Department of Health shall require a hospital, as a
2 condition of licensure, to establish a nurse staffing committee,
3 either by creating a new committee or assigning the functions of a
4 nurse staffing committee to an existing committee. At least 55
5 percent of the members of the nurse staffing committee shall be
6 registered nurses currently providing direct patient care at the
7 hospital, and no more than 45 percent of the members of the
8 committee shall be hospital administrative staff. The selection of the
9 registered nurses shall be according to the collective bargaining
10 agreement, if there is one in effect at the hospital. If there is no
11 applicable collective bargaining agreement, the members of the nurse
12 staffing committee who are registered nurses shall be selected by their
13 peers. The members of the nurse staffing committee who are hospital
14 administrative staff shall be appointed by the hospital's chief executive
15 officer.

16 b. Participation in the nurse staffing committee by a hospital
17 employee shall be on scheduled work time and compensated at the
18 appropriate rate of pay. Nurse staffing committee members shall be
19 relieved of all other work duties during meetings of the committee.

20 c. Primary responsibilities of the nurse staffing committee shall
21 include:

22 (1) The development and oversight of an annual patient care unit
23 and shift-based nurse staffing plan, which shall be based on the needs
24 of patients, and which shall be used as the primary component of the
25 staffing budget. The nurse staffing plan shall establish upwardly
26 adjustable minimum ratios of direct care registered nurses to patients
27 for each unit and for each shift of the hospital. Factors to be
28 considered in the development of the nurse staffing plan shall include,
29 but need not be limited to:

30 (i) hospital census data, including total numbers of patients on the
31 unit on each shift;

32 (ii) hospital admission, discharge, and transfer data;

33 (iii) the level of intensity and the nature of the care to be delivered
34 to patients on each shift;

35 (iv) skill mix;

36 (v) the level of experience and specialty certification or training of
37 nursing personnel providing care;

38 (vi) the need for specialized or intensive equipment;

39 (vii) the architecture and geography of the patient care unit,
40 including, but not limited to, the placement of patient rooms, treatment
41 areas, nursing stations, medication preparation areas, and equipment;

42 (viii) staffing guidelines adopted or published by national nursing
43 professional associations, specialty nursing organizations, and other
44 health professional organizations;

45 (ix) the availability of other personnel supporting nursing services
46 on the unit;

47 (x) unit and facility level staffing, quality and patient outcomes
48 data, and national comparisons, as available;

- 1 (xi) hospital finances and resources; and
- 2 (xii) strategies to enable registered nurses to take meal and rest
- 3 breaks as required by law or the terms of an applicable collective
- 4 bargaining agreement, if any, between the hospital and a representative
- 5 of the nursing staff;
- 6 (2) A semiannual review of the staffing plan against patient need
- 7 and known evidence-based staffing information; and
- 8 (3) The review, assessment, and response to staffing variations or
- 9 concerns presented to the committee.
- 10 d. The nurse staffing plan shall:
- 11 (1) not diminish other standards contained in State or federal law
- 12 and rules, or the terms of an applicable collective bargaining
- 13 agreement, if any, between the hospital and a representative of the
- 14 nursing staff;
- 15 (2) ensure that a registered nurse shall not be assigned to work in a
- 16 particular unit of the hospital without first having established the
- 17 ability to provide professional care in such unit; and
- 18 (3) provide for exemptions for some or all requirements of the
- 19 nurse staffing plan during a state of emergency, as defined in section
- 20 23 of P.L.2011, c.19 (C.5:12-45.3), if the hospital is requested or
- 21 expected to provide an exceptional level of emergency or other
- 22 medical services.
- 23 e. The nurse staffing committee shall provide the annual nurse
- 24 staffing plan to the hospital's chief executive officer for review. If this
- 25 nurse staffing plan is not adopted by the hospital, the chief executive
- 26 officer of the hospital shall provide a written explanation of the
- 27 reasons why the plan was not adopted to the committee and either:
- 28 identify those elements of the proposed plan being changed prior to
- 29 adoption of the plan by the hospital; or prepare and submit to the
- 30 committee an alternate annual staffing plan, as adopted by the hospital.
- 31 f. One year after the enactment of P.L. , c. (C.)
- 32 (pending before the Legislature as this bill), each hospital shall:
- 33 (1) submit its adopted nurse staffing plan to the Department of
- 34 Health and, thereafter, on an annual basis, and at any time that the plan
- 35 is updated; and
- 36 (2) implement the adopted nurse staffing plan and assign nursing
- 37 personnel to each patient care unit in accordance with the plan.
- 38 g. Each nurse staffing committee shall develop a process to:
- 39 examine and respond to complaints regarding the hospital's
- 40 implementation of the adopted nurse staffing plan; determine if a
- 41 specific complaint is resolved; and dismiss a complaint based on
- 42 unsubstantiated data. A registered nurse, a member of the nurse
- 43 staffing committee, a hospital staff member, a hospital patient, or any
- 44 other person may submit to the Department of Health any complaint
- 45 that remains unresolved upon examination by the nurse staffing
- 46 committee, as outlined in section 4 of this act, for further investigation.
- 47 h. Each hospital shall post, in a public area on each patient care
- 48 unit, the adopted nurse staffing plan and the nurse staffing schedule for

1 that shift on the unit, as well as the relevant clinical staffing levels for
2 that shift. The nurse staffing plan and current staffing levels shall also
3 be made available to patients and visitors upon request.

4 i. A hospital shall not retaliate against or engage in any form of
5 intimidation of:

6 (1) an employee for performing any duties or responsibilities in
7 connection with a nurse staffing committee; or

8 (2) an employee, patient, or other individual who notifies the nurse
9 staffing committee, the hospital administration, or the Department of
10 Health of concerns regarding nurse staffing.

11

12 4. a. The Commissioner of Health shall establish procedures that
13 enable persons to file complaints regarding the hospital's
14 implementation of the adopted nurse staffing plan; and that provide for
15 the investigation of such complaints. The department shall only
16 investigate a complaint that was previously submitted to the nursing
17 staff committee, and that provides evidence indicating a continuing
18 pattern of unresolved violations for a minimum of a 60-day continuous
19 period leading up to receipt of the complaint by the department. The
20 department shall not investigate a complaint:

21 (1) that is determined by a nurse staffing committee to be resolved
22 or dismissed;

23 (2) in the event of unforeseeable emergency circumstances; or

24 (3) if a hospital, after consultation with a nurse staffing committee,
25 documents it has made reasonable efforts to obtain staffing to meet
26 required assignments, but has been unable to do so.

27 b. After an investigation, if the department determines that there
28 has been a violation, the department shall require the hospital to
29 submit a corrective plan of action within 45 days of the presentation of
30 findings from the department to the hospital.

31 In the event that a hospital fails to submit, or submits but fails to
32 follow, such a corrective plan of action in response to a violation or
33 violations found by the department, the department may impose, for all
34 violations asserted against a hospital at any time, in addition to any
35 other penalties prescribed under State law, a civil penalty of \$1,000
36 per day until the hospital submits or begins to follow the corrective
37 plan of action or takes other action agreed to by the department.

38 The department shall maintain, for public inspection, records of any
39 civil penalties, administrative actions, or license suspensions or
40 revocations imposed on hospitals under this section.

41 c. The department shall submit to the Governor, and to the
42 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
43 a report regarding the implementation of this section within 18 months
44 of the enactment of P.L. , c. (C.) (pending before the
45 Legislature as this bill). This report shall include the number of
46 complaints submitted to the department, the disposition of these
47 complaints, the number of investigations conducted, the associated

1 costs for complaint investigations, and recommendations for any
2 needed statutory changes.

3

4 5. The Commissioner of Health, pursuant to the
5 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
6 1 et seq.), shall adopt rules and regulations as may be necessary to
7 implement the provisions of this act.

8

9 6. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill requires hospitals to establish nurse staffing
15 committees. Specifically, the bill directs the Department of Health
16 to require a hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1
17 et seq.), as a condition of licensure, to establish a nurse staffing
18 committee, either by creating a new committee or assigning the
19 functions of a nurse staffing committee to an existing committee.
20 At least 55 percent of the members of the nurse staffing committee
21 are to be registered nurses currently providing direct patient care at
22 the hospital, and no more than 45 percent of the members of the
23 committee are to be hospital administrative staff. The selection of
24 the registered nurses are to be according to the collective bargaining
25 agreement, if there is one in effect at the hospital. If there is no
26 applicable collective bargaining agreement, the members of the nurse
27 staffing committee who are registered nurses are to be selected by their
28 peers. The members of the nurse staffing committee who are hospital
29 administrative staff are to be appointed by the hospital’s chief
30 executive officer.

31 Participation in the nurse staffing committee by a hospital employee
32 is to be on scheduled work time and compensated at the appropriate
33 rate of pay. Nurse staffing committee members are to be relieved of all
34 other work duties during meetings of the committee.

35 Under the bill, the primary responsibilities of the nurse staffing
36 committee include:

37 (1) The development and oversight of an annual patient care unit
38 and shift-based nurse staffing plan, which is to be based on the needs
39 of patients, and which is to be used as the primary component of the
40 staffing budget. The nurse staffing plan is to establish upwardly
41 adjustable minimum ratios of direct care registered nurses to patients
42 for each unit and for each shift of the hospital. Factors to be
43 considered in the development of the nurse staffing plan include, but
44 need not be limited to: hospital census data; hospital admission,
45 discharge, and transfer data; the level of intensity and the nature of the
46 care to be delivered to patients on each shift; skill mix, defined as the
47 number and relative percentages of registered nurses, licensed
48 practical nurses, and unlicensed assistive personnel among the total

1 number of nursing personnel; the level of experience and specialty
2 certification or training of nursing personnel providing care; the need
3 for specialized or intensive equipment; the architecture and geography
4 of the patient care unit; staffing guidelines adopted or published by
5 health professional organizations; the availability of other personnel
6 supporting nursing services on the unit; unit and facility level staffing,
7 quality and patient outcomes data, and national comparisons, as
8 available; hospital finances and resources; and strategies to enable
9 registered nurses to take meal and rest breaks as required by law or the
10 terms of an applicable collective bargaining agreement, if any,
11 between the hospital and a representative of the nursing staff;

12 (2) A semiannual review of the staffing plan against patient need
13 and known evidence-based staffing information; and

14 (3) The review, assessment, and response to staffing variations or
15 concerns presented to the committee.

16 Furthermore, the staffing plan is required to: (1) not diminish other
17 standards contained in State or federal law and rules, or the terms of an
18 applicable collective bargaining agreement, if any, between the
19 hospital and a representative of the nursing staff; (2) ensure that a
20 registered nurse is not assigned to work in a particular unit of the
21 hospital without first having established the ability to provide
22 professional care in such unit; and (3) provide for exemptions for some
23 or all requirements of the nurse staffing plan during a state of
24 emergency, as defined in section 23 of P.L.2011, c.19 (C.5:12-45.3), if
25 the hospital is requested or expected to provide an exceptional level of
26 emergency or other medical services.

27 The nurse staffing committee is required provide the annual nurse
28 staffing plan to the hospital's chief executive officer for review. If this
29 nurse staffing plan is not adopted by the hospital, the chief executive
30 officer of the hospital is to provide a written explanation to the
31 committee of the reasons why the plan was not adopted. The chief
32 executive officer must then either: identify those elements of the
33 proposed plan being changed prior to adoption of the plan by the
34 hospital; or prepare an alternate annual staffing plan that must be
35 adopted by the hospital.

36 One year after the of enactment of the bill, each hospital is to: 1)
37 submit its adopted nurse staffing plan to the Department of Health and,
38 thereafter, on an annual basis, and at any time that the plan is updated;
39 2) implement the adopted nurse staffing plan and assign nursing
40 personnel to each patient care unit in accordance with the plan.

41 Each nurse staffing committee is to develop a process to: examine
42 and respond to a complaint regarding the hospital's implementation of
43 the adopted nurse staffing plan; determine if a specific complaint is
44 resolved; and dismiss a complaint based on unsubstantiated data. A
45 registered nurse, a member of the nurse staffing committee, a hospital
46 staff member, a hospital patient, or any other person may submit to the
47 Department of Health any complaint that remains unresolved upon
48 examination by the nurse staffing committee for further investigation.

1 Each hospital is required to post, in a public area on each patient
2 care unit, the nurse staffing plan and the nurse staffing schedule for
3 that shift on the unit, as well as the relevant clinical staffing levels for
4 that shift. The nurse staffing plan and current staffing levels are also to
5 be made available to patients and visitors upon request.

6 Finally, a hospital is prohibited from retaliating against or engaging
7 in any form of intimidation of: (1) an employee for performing any
8 duties or responsibilities in connection with the nurse staffing
9 committee; or (2) an employee, patient, or other individual who
10 notifies the nurse staffing committee, the hospital administration, or
11 the Department of Health of concerns regarding nurse staffing.

12 The Commissioner of Health is directed to establish procedures that
13 enable persons to file complaints regarding the hospital's
14 implementation of the adopted nurse staffing plan; and that provide for
15 the investigation of such complaints. The department is only to
16 investigate a complaint that was previously submitted to the nursing
17 staff committee, and that provides evidence indicating a continuing
18 pattern of unresolved violations for a minimum of a 60-day continuous
19 period leading up to receipt of the complaint by the department. The
20 department is not to investigate a complaint: that is determined by the
21 nurse staffing committee to be resolved or dismissed; in the event of
22 unforeseeable emergency circumstances; or if a hospital, after
23 consultation with a nurse staffing committee, documents it has made
24 reasonable efforts to obtain staffing to meet required assignments, but
25 has been unable to do so. Under the bill, "unforeseeable emergency
26 circumstance" means any unforeseen national, State, or municipal
27 emergency; when a hospital disaster plan is activated; any unforeseen
28 disaster or other catastrophic event that substantially affects or
29 increases the need for health care services; or when a hospital is
30 diverting patients to another hospital or hospitals for treatment or the
31 hospital is receiving patients who are from another hospital or
32 hospitals.

33 After an investigation, if the department determines that there has
34 been a violation, the department is to require the hospital to submit a
35 corrective plan of action within 45 days of the presentation of findings
36 from the department to the hospital. In the event that a hospital fails to
37 submit, or submits but fails to follow, such a corrective plan of action
38 in response to a violation or violations found by the department, the
39 department may impose, for all violations asserted against a hospital at
40 any time, in addition to any other penalties prescribed under State law,
41 a civil penalty of \$1,000 per day until the hospital submits or begins to
42 follow the corrective plan of action or takes other action agreed to by
43 the department. The department is required to maintain, for public
44 inspection records, of any civil penalties, administrative actions, or
45 license suspensions or revocations imposed on hospitals under this
46 section.

47 Finally, the bill directs the department to submit to the Governor
48 and to the Legislature a report regarding the department's

1 investigation of such complaints within 18 months of the enactment of
2 the bill. This report is to include the number of complaints submitted
3 to the department, the disposition of these complaints, the number of
4 investigations conducted, the associated costs for complaint
5 investigations, and recommendations for any needed statutory
6 changes.

7 It is the sponsor's belief that the creation of nurse staffing
8 committees will empower direct care nurses to determine the unique
9 and variable needs of their patients to ensure quality care. Evidenced-
10 based studies have shown that adequate nurse staffing based on
11 research findings and the intensity of patient care is directly related
12 to positive patient outcomes and assists in reducing errors and
13 complications. Furthermore, appropriate staffing of hospital
14 personnel improve staff safety and satisfaction, and reduce
15 incidences of workplace injuries.