

ASSEMBLY, No. 4536

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2022

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SYNOPSIS

Establishes minimum registered professional nurse staffing standards for hospitals and ambulatory surgery facilities and certain DHS facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/22/2022)

1 AN ACT concerning nurse staffing standards in inpatient health care
2 facilities and certain State facilities and supplementing Titles 26
3 and 30 of the Revised Statutes.

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

7
8 1. The Legislature finds and declares that:

9 a. Because of recent changes in the health care delivery
10 system, patients in general and special hospitals and ambulatory
11 surgery facilities in the State, and in State developmental centers
12 and psychiatric hospitals, generally have higher acuity levels than in
13 the past;

14 b. Recent studies demonstrate the link between adequate
15 registered professional nurse staffing and improved mortality rates
16 and quality of care among patients in health care facilities;

17 c. Inadequate nurse staffing can result in dangerous medical
18 errors, patient infections, and increased injuries to patients and
19 caregivers;

20 d. Inadequate and poorly monitored nurse staffing practices
21 jeopardize the delivery of health care services and adversely impact
22 the health of patients;

23 e. The establishment of staffing standards for registered
24 professional nurses in hospitals, ambulatory surgery facilities, and
25 State developmental centers and psychiatric hospitals should not be
26 construed as justifying understaffing with respect to other critical
27 health care workers; safe staffing practices recognize the
28 importance of all health care workers in providing quality patient
29 care because the availability of these other health care workers
30 enables registered professional nurses to focus on the nursing care
31 functions that only these nurses, by law, are permitted to perform;
32 and

33 f. Understaffing at hospitals, ambulatory surgery facilities, and
34 State developmental centers and psychiatric hospitals has been
35 demonstrated to be an underlying cause of the current nursing
36 shortage, because higher patient assignments create higher levels of
37 job dissatisfaction, burnout, and turnover rates among nurses.

38
39 2. a. In addition to staffing requirements provided by law or
40 regulation on the effective date of this act, the Commissioner of
41 Health shall adopt regulations that provide minimum direct care
42 registered professional nurse-to-patient staffing ratios for all patient
43 units in general and special hospitals, State psychiatric hospitals,
44 and ambulatory surgical facilities in accordance with the
45 requirements of this act. The regulations shall not decrease any
46 nurse-to-patient staffing ratios in effect on the effective date of this
47 act.

48 b. The regulations adopted pursuant to this section shall, at a

1 minimum, provide for the following nurse-to-patient ratios:

2 (1) one registered professional nurse for every five patients on a
3 medical/surgical unit;

4 (2) one registered professional nurse for every four patients in a
5 step down, telemetry, or intermediate care unit;

6 (3) one registered professional nurse for every four patients in
7 an emergency department, one registered professional nurse for
8 every two patients in a critical care service of an emergency
9 department, and one registered professional nurse for every patient
10 in a trauma service of an emergency department;

11 (4) one registered professional nurse for every five patients in a
12 behavioral health or psychiatric unit;

13 (5) one registered professional nurse for every two patients in a
14 critical care, intensive care, neonatal, or burn unit;

15 (6) one registered professional nurse for every patient under
16 anesthesia in an operating room, and one registered professional
17 nurse for every two post-anesthesia patients in a recovery room or
18 post-anesthesia care unit;

19 (7) one registered professional nurse for every two patients in a
20 labor and delivery unit; one registered professional nurse for every
21 four patients, including infants, in a postpartum unit in which the
22 mother and infant share the same room; and one registered
23 professional nurse for every six patients in a mothers-only unit; and

24 (8) one registered professional nurse for every four patients in a
25 pediatric or intermediate care nursery unit, and one registered
26 professional nurse for every six patients in a well-baby nursery.

27 c. As used in this section and section 3 of this act, "direct care
28 registered professional nurse" means a registered professional nurse
29 who is assigned to provide care for one or more patients in a
30 specific unit, service, or department and is directly responsible for
31 carrying out procedures, assessments, or other nursing protocols.

32

33 3. a. The Commissioner of Health shall require all general and
34 special hospitals, State psychiatric hospitals, and ambulatory
35 surgical facilities to employ an acuity and staffing system, approved
36 by the commissioner, for the purpose of increasing direct care
37 registered professional nurse staffing levels above the minimum
38 levels established in section 2 of this act, or otherwise provided by
39 law or regulation, to ensure adequate staffing of each unit, service,
40 or department, as applicable.

41 b. The acuity and staffing system required pursuant to
42 subsection a. of this section shall meet the following requirements:

43 (1) The system shall be based on:

44 (a) patient classification or acuity;

45 (b) professional nurse staffing standards adopted by nurse
46 specialty organizations;

47 (c) skill mix; and

48 (d) the staffing levels of other health care personnel and the use

1 of agency or temporary staff.

2 (2) The system shall be established in the facility by the
3 department of nursing with a majority of the unit staff nurses'
4 approval, or with the approval of the bargaining agent for registered
5 professional nurses at the facility.

6 (3) The system shall allow forecasting of staffing levels and
7 provide a method to adjust staff for each patient care unit based on
8 objective criteria, including, but not limited to:

9 (a) documented skills, training, and competency of staff to plan
10 and provide nursing services in the nursing areas where they
11 function;

12 (b) a patient database incorporating objective factors such as the
13 case mix index, specific or aggregate patient diagnostic
14 classifications or acuity levels, patient profiles, critical pathways or
15 care progression plans, length of stay, and discharge plans;

16 (c) operational factors, such as unit size, design, and capacity,
17 the admission/discharge/transfer index, and support service
18 availability;

19 (d) contingency plans to address critical departures from the
20 staffing plan, including policies and procedures to regulate closure
21 of available beds if staffing levels fall below specified levels; and

22 (e) policies and procedures for the reassignment of staff,
23 including float and agency staff.

24 (4) The system shall permit waiver of minimum staffing level
25 requirements in the event of an unforeseen emergent circumstance
26 which causes significant changes in the patient census for a regular
27 shift. Waiver shall not be permitted unless the facility has made
28 reasonable efforts to provide sufficient additional staff to meet the
29 required minimum staffing levels, including seeking volunteers and
30 making use of on-call staff, per-diem staff, agency staff, and float
31 pools. As used in this subsection, "unforeseeable emergent
32 circumstance" means an unpredictable or unavoidable occurrence
33 requiring immediate action.

34 c. A hospital shall maintain a float pool of qualified registered
35 professional nurses to accommodate changes in staffing needs.

36 d. A nurse who is assigned the duty of maintaining unit census
37 for patients and staff or supervisory functions, or who spends a
38 significant amount of time on non-nursing tasks, shall not be
39 factored into the required staffing levels.

40 e. A registered professional nurse shall not be assigned to a
41 unit, service, or department, or considered in the count of nursing
42 staff in a unit, service, or department, unless that nurse has received
43 prior orientation in the applicable clinical area and has
44 demonstrated current competence in providing care in that unit,
45 service, or department.

46

47 4. a. The Department of Health shall monitor and enforce the
48 minimum staffing level requirements established by this act through

1 periodic inspection and in response to any complaint filed pursuant
2 to subsection b. of this section.

3 b. A registered professional nurse or other staff member who
4 believes that the hospital or facility in which the nurse or staff
5 member is employed is in violation of the staffing requirements or
6 the staffing and acuity system required pursuant to this act, or a
7 member of the public who believes that a hospital or facility is in
8 violation of the staffing requirements required under this act, may
9 file a complaint with the Commissioner of Health. The complaint
10 shall be filed in a form and manner determined by the
11 commissioner. The commissioner shall conduct an investigation of
12 the complaint to determine whether or not a hospital or facility is in
13 violation and take such action as may be necessary to ensure
14 compliance with the requirements of this act.

15 c. The Commissioner of Health may waive the minimum
16 staffing level requirements established by this act for any hospital
17 or facility that the commissioner determines is in financial distress.
18 The commissioner may revoke a waiver granted pursuant to this
19 subsection if the commissioner determines that the hospital or
20 facility is no longer in financial distress.

21
22 5. The Commissioner of Health shall, pursuant to the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), adopt regulations, within 90 days of the effective date of this
25 act, as necessary to carry out the provisions of this act. The
26 commissioner shall hold a public hearing on the proposed
27 regulations within 30 days of their publication in the New Jersey
28 Register.

29
30 6. The Commissioner of Human Services shall conduct a
31 review of Department of Human Services regulations concerning
32 registered professional nurse staffing standards in developmental
33 centers, and shall revise the regulations, as appropriate, to reflect
34 safe staffing practices and assure adequate staffing at the facilities.

35
36 7. This act shall take effect on the first day of the 12th month
37 after enactment, but the Commissioners of Health and Human
38 Services may take such anticipatory administrative action in
39 advance as shall be necessary for the implementation of this act.

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STATEMENT

43

44 This bill establishes staffing standards for registered professional
45 nurses in State hospitals, ambulatory surgical facilities, psychiatric
46 hospitals, and developmental centers.

47 Specifically, the bill provides that, in addition to existing staffing
48 requirements provided by law or regulation, the Commissioner of

1 Health is to adopt regulations that provide minimum direct care
2 registered professional nurse-to-patient staffing ratios for all patient
3 units in general and special hospitals, State psychiatric hospitals,
4 and ambulatory surgical facilities, in accordance with the minimum
5 staffing requirements that are established by the bill. As specified
6 in the bill, minimum nurse-to-patient ratios will vary depending on
7 the type of unit, and will range from one registered professional
8 nurse for every five patients in a behavioral health or psychiatric or
9 a medical/surgical unit, to one registered professional nurse for
10 every patient under anesthesia in an operating room. The
11 regulations adopted by the Commissioner of Health are not to
12 decrease any nurse-to-patient staffing ratios that are already in
13 effect on the bill's effective date.

14 The bill provides that the Commissioner of Health is to require
15 all general and special hospitals, State psychiatric hospitals, and
16 ambulatory surgical facilities to employ an acuity and staffing
17 system for the purpose of increasing direct care registered
18 professional nurse staffing levels above the minimum levels
19 established in the bill, or otherwise provided by law or regulation,
20 in order to ensure adequate staffing of each unit, service, or
21 department. The acuity and staffing system will be based on:
22 patient classification or acuity; professional nurse staffing standards
23 adopted by nurse specialty organizations; skill mix; and the staffing
24 levels of other health care personnel and the use of agency or
25 temporary staff. The system is to be established in the facility by
26 the facility's department of nursing, with the approval of a majority
27 of the unit staff nurses or their bargaining agent. The bill requires
28 the acuity and staffing system to allow for the forecasting of
29 staffing levels, and to provide a method to adjust staffing levels for
30 each patient care unit based on objective criteria currently set forth
31 at N.J.A.C.8:43G-17.1(a)3, including, but not limited to:

32 (1) the documented skills, training, and competency of staff to
33 plan and provide nursing services in the nursing areas where they
34 function;

35 (2) a patient database incorporating objective factors such as the
36 case mix index, specific or aggregate patient diagnostic
37 classifications or acuity levels, patient profiles, critical pathways or
38 care progression plans, length of stay, and discharge plans;

39 (3) operational factors, such as unit size, design, and capacity,
40 the admission/discharge/transfer index, and support service
41 availability;

42 (4) contingency plans to address critical departures from the
43 staffing plan, including policies and procedures to regulate the
44 closure of available beds if staffing levels fall below specified
45 levels; and

46 (5) policies and procedures for the reassignment of staff,
47 including float and agency staff.

48 The acuity and staffing system will additionally be required to

1 permit waiver of minimum staffing level requirements in the event
2 of an unforeseen emergent circumstance which causes significant
3 changes in the patient census for a regular shift. Waiver will not be
4 permitted unless the facility has made reasonable efforts to provide
5 sufficient additional staff to meet the required minimum staffing
6 levels, including seeking volunteers and making use of on-call staff,
7 per-diem staff, agency staff, and float pools. The bill defines
8 “unforeseeable emergent circumstance” to mean an unpredictable or
9 unavoidable occurrence requiring immediate action.

10 The Commissioner of Health will also be permitted to waive the
11 minimum staffing level requirements for any hospital or facility that
12 the commissioner determines is in financial distress. A waiver may
13 be revoked upon a determination that the facility is no longer in
14 financial distress.

15 The bill requires the Department of Health to enforce minimum
16 staffing ratios by conducting periodic inspections and responding to
17 complaints. The bill provides a system, pursuant to which a
18 registered professional nurse, other staff member, or member of the
19 public, believing that a facility is in violation of the staffing
20 requirements or the staffing and acuity system, may file a complaint
21 with the Commissioner of Health. In responding to a complaint, the
22 commissioner will be required to conduct an investigation to
23 determine whether or not a hospital or facility is in violation, and to
24 take such other action as may be necessary to ensure compliance
25 with the requirements of the bill.

26 Finally, in addition to the above-described requirements
27 applicable to the Commissioner of Health, the bill requires the
28 Commissioner of Human Services to conduct a review of
29 Department of Human Services regulations concerning registered
30 professional nurse staffing standards in developmental centers, and
31 to revise the regulations, as appropriate, to reflect safe staffing
32 practices and assure adequate staffing at the facilities.