

SENATE, No. 2700

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 12, 2024

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Establishes “Patient Protection and Safe Staffing Act.”

CURRENT VERSION OF TEXT

As introduced.



S2700 VITALE

2

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

4

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

7

8 1. This act shall be known and may be cited as the “Patient
9 Protection and Safe Staffing Act.”

10

11 2. The Legislature finds and declares that:

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

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

20 c. Inadequate nurse staffing can result in dangerous medical
21 errors, patient infections, and increased injuries to patients and
22 caregivers;

23 d. Inadequate and poorly monitored nurse staffing practices
24 jeopardize the delivery of health care services and adversely impact
25 the health of patients;

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

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

41

42 3. As used in this act:

43 “Commissioner” means the Commissioner of Health.

44 “Department” means the Department of Health.

45 “Direct care registered professional nurse” means a registered
46 professional nurse who is assigned to provide care for one or more
47 patients in a specific unit, service, or department and is directly

1 responsible for carrying out procedures, assessments, or other
2 nursing protocols.

3 “Unlicensed assistive personnel” means any unlicensed or
4 uncertified personnel employed by a licensed health care facility
5 that perform nursing tasks which do not require the skill or
6 judgment of a registered professional nurse and which are assigned
7 to them by, and carried out under the supervision of, a registered
8 professional nurse, in accordance with regulations promulgated by
9 the Commissioner of Health pursuant to section 2 of P.L.1999,
10 c.436 (C.26:2H-12.15).

11

12 4. a. In addition to staffing requirements provided by law or
13 regulation on the effective date of this act, the Commissioner of
14 Health shall adopt regulations that provide minimum direct care
15 registered professional nurse-to-patient staffing ratios and
16 unlicensed assistive personnel-to-patient staffing ratios for all
17 patient units in general and special hospitals and ambulatory
18 surgical facilities in accordance with the requirements of this act.
19 The regulations shall not decrease any nurse-to-patient staffing
20 ratios or unlicensed assistive personnel-to-patient staffing ratios in
21 effect on the effective date of this act.

22 b. The regulations adopted pursuant to this section shall, at a
23 minimum, provide for the following nurse-to-patient staffing ratios:

24 (1) one registered professional nurse for every four patients on a
25 medical/surgical unit;

26 (2) one registered professional nurse for every three patients in a
27 step down, telemetry, progressive care, or intermediate care unit;

28 (3) one registered professional nurse for every four patients in
29 an emergency department, one registered professional nurse for
30 every two patients in a critical care service of an emergency
31 department, and one registered professional nurse for every patient
32 in a trauma service of an emergency department;

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

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

37 (6) one registered professional nurse for every patient under
38 anesthesia in an operating room, and one registered professional
39 nurse for every one post-anesthesia patient in a recovery room or
40 post-anesthesia care unit;

41 (7) one registered professional nurse for every three patients in a
42 labor and delivery unit; one registered professional nurse for every
43 four patients, including infants, in a postpartum unit in which the
44 mother and infant share the same room; and one registered
45 professional nurse for every six patients in a mothers-only unit; and

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

S2700 VITALE

1 c. The regulations adopted pursuant to this section shall, at a
2 minimum, provide for the following unlicensed assistive personnel-
3 to-patient staffing ratios:

4 (1) one unlicensed assistive personnel for every seven patients
5 for the day shift of any patient unit; and

6 (2) one unlicensed assistive personnel for every 11 patients for
7 the night shift of any patient unit.

8

9 5. a. The Commissioner of Health shall require all general and
10 special hospitals and ambulatory surgical facilities to employ an
11 acuity and staffing system, approved by the commissioner, for the
12 purpose of increasing direct care registered professional nurse and
13 unlicensed assistive personnel staffing levels above the minimum
14 levels established in section 2 of this act, or otherwise provided by
15 law or regulation, to ensure adequate staffing of each unit, service,
16 or department, as applicable.

17 The acuity and staffing system shall meet the following
18 requirements:

19 (1) be based on: patient classification or acuity; professional
20 nurse staffing standards adopted by nurse specialty organizations;
21 skill mix; and the staffing levels of other health care personnel and
22 the use of agency or temporary staff;

23 (2) be established in the facility by the department of nursing
24 with a majority of the unit staff nurses' approval, or with the
25 approval of the collective bargaining agent for registered
26 professional nurses at the facility;

27 (3) allow forecasting of staffing levels and provide a method to
28 adjust staff for each patient care unit based on objective criteria,
29 including, but not limited to:

30 (a) documented skills, training, and competency of staff to plan
31 and provide nursing services in the nursing areas where they
32 function;

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

37 (c) operational factors, such as unit size, design, and capacity,
38 the admission/discharge/transfer index, and support service
39 availability;

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

43 (e) policies and procedures for the reassignment of staff,
44 including float and agency staff; and

45 (4) permit waiver of minimum staffing level requirements in the
46 event of an unforeseen emergent circumstance which causes
47 significant changes in the patient census for a regular shift. Waiver
48 shall not be permitted unless the facility has made reasonable

1 efforts to provide sufficient additional staff to meet the required
2 minimum staffing levels, including seeking volunteers and making
3 use of on-call staff, per-diem staff, agency staff, and float pools. As
4 used in this subsection, “unforeseeable emergent circumstance”
5 means an unpredictable or unavoidable occurrence requiring
6 immediate action.

7 b. A hospital or facility shall maintain a float pool of qualified
8 registered professional nurses to accommodate changes in staffing
9 needs.

10 c. A nurse who is assigned the duty of maintaining unit census
11 for patients and staff or supervisory functions, or who spends a
12 significant amount of time on non-nursing tasks, shall not be
13 factored into the required staffing levels.

14 d. A registered professional nurse shall not be assigned to a
15 unit, service, or department, or considered in the count of nursing
16 staff in a unit, service, or department, unless that nurse has received
17 prior orientation in the applicable clinical area and has
18 demonstrated current competence in providing care in that unit,
19 service, or department.

20 e. A hospital or facility shall not reduce the number of ancillary
21 nursing personnel, which shall include, but not be limited to, nurse
22 assistants, unit clerks, monitor technicians, and transport teams, on
23 duty to meet the required staffing levels.

24

25 6. a. The Department of Health shall monitor and enforce the
26 minimum staffing level requirements or the staffing and acuity
27 system requirements established by this act through periodic
28 inspection and in response to any complaint filed pursuant to
29 subsection b. of this section.

30 b. A registered professional nurse or other staff member, a
31 collective bargaining agent of a staff member, or a member of the
32 public, who believes that the hospital or facility in which the nurse
33 or staff member is employed is in violation of the staffing level
34 requirements or the staffing and acuity system requirements
35 established pursuant to this act, may file a complaint with the
36 Commissioner of Health. The complaint shall be filed no later than
37 60 days after the date of the alleged violation, in a form and manner
38 determined by the commissioner.

39 c. No later than 14 days after the filing of a complaint pursuant
40 to subsection b. of this section, the department shall send a copy of
41 the complaint to the collective bargaining agent of the staff
42 member, who filed a complaint, if applicable.

43 d. (1) Within 30 days of the filing of a complaint pursuant to
44 subsection b. of this section, the commissioner shall:

45 (a) commence an investigation of the complaint to determine
46 whether or not a hospital or facility is in violation of the provisions
47 of this act; and

S2700 VITALE

1 (b) provide a notice of the investigation to the hospital or facility
2 and any collective bargaining agent of any staff member employed
3 at the hospital or facility, if applicable.

4 (2) In conducting the investigation, the department may conduct
5 on-site inspections of the patient unit identified in the complaint,
6 conduct interviews, compel the production of documents and
7 records pertaining to the complaint, and take any other action as
8 may be necessary to ensure compliance with the provisions of this
9 act.

10 (3) The department shall conclude any investigation conducted
11 pursuant to this subsection no later than 60 days after the
12 commencement of such investigation.

13 (4) Following the completion of an investigation conducted
14 pursuant to this subsection, in which investigation the department
15 determines a hospital or facility to be in violation of the staffing
16 level requirements or the staffing and acuity system requirements
17 established pursuant to this act, the hospital or facility shall be
18 issued a warning for a first offense and liable to a civil penalty of
19 no more than \$1,750 for a second offense occurring within a four-
20 year period, no more than \$2,5000 for a third offense occurring
21 within a four-year period, and no more than \$5,000 for a fourth
22 offense or subsequent offense occurring within a four-year period.
23 For the purposes of this paragraph, each violation shall constitute a
24 separate offense. The civil penalty shall be collected in a summary
25 proceeding, brought in the name of the State in a court of competent
26 jurisdiction pursuant to the "Penalty Enforcement Law of 1999,"
27 P.L.1999, c.274 (C.2A:58-10 et seq.). Any money collected by the
28 court in payment of a civil penalty imposed pursuant to this
29 paragraph shall be conveyed to the State Treasurer for deposit into
30 the Patient Protection and Staffing Fund, established pursuant to
31 section 7 of this act. Nothing in this act shall be construed to limit
32 the ability to bring any civil, criminal, or administrative action for
33 conduct constituting a violation of any other provision of law.

34 (5) The department shall prepare and provide to the complainant
35 and the complainant's collective bargaining agent, if applicable, a
36 written report of the department's findings from the investigation,
37 which report shall include a summary of the complaint, the
38 department's findings and the factual basis of those findings, any
39 penalties imposed on the hospital or facility, and any other
40 information the department determines to be necessary to include in
41 the report. The report shall not include any personally identifiable
42 information.

43 The department shall post on its Internet website any report
44 prepared pursuant to this paragraph for any investigation, in which
45 investigation the department found a violation of the staffing levels
46 requirements or the staffing and acuity system requirements
47 established pursuant to this act.

S2700 VITALE

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1 7. a. There is created in the Department of the Treasury a
2 dedicated, non-lapsing fund to be known as the "Patient Protection
3 and Staffing Fund."

4 b. The fund shall be credited with monies collected by the
5 court in payment of any civil penalty imposed pursuant to paragraph
6 (4) of subsection d. of section 6 of this act.

7 c. The State Treasurer shall be the custodian of the fund and all
8 disbursements from the fund shall be made by the State Treasurer
9 upon vouchers signed by the Commissioner of Health. The monies
10 in the fund shall be invested and reinvested by the Director of the
11 Division of Investment in the Department of the Treasury as are
12 other trust funds in the custody of the State Treasurer in the manner
13 provided by law. Interest received on the monies in the fund shall
14 be credited to the fund.

15 d. Moneys in the fund shall be dedicated and used only for the
16 purposes of: increasing the number of inspectors employed by the
17 Department of Health to enforce the provisions of this act;
18 advancing nursing recruitment and retentions programs; supporting
19 student loan forgiveness for nursing students; and increasing pay
20 for nursing teaching staff.

21
22 8. 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.

26 The commissioner shall hold a public hearing on the proposed
27 regulations within 30 days of their publication in the New Jersey
28 Register.

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30 9. 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 State psychiatric hospitals, and shall revise the
34 regulations, as appropriate, to reflect safe staffing practices and
35 assure adequate staffing at the facilities.

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

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STATEMENT

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45 This bill establishes the "Patient Protection and Safe Staffing
46 Act," which provides certain staffing standards in State hospitals,
47 ambulatory surgical facilities, developmental centers, and
48 psychiatric hospitals.

S2700 VITALE

1 Specifically, the bill provides that, in addition to existing staffing
2 requirements provided by law or regulation, the Commissioner of
3 Health is to adopt regulations that provide minimum direct care
4 registered professional nurse-to-patient staffing ratios and
5 unlicensed assistive personnel-to-patient staffing ratios for all
6 patient units in general and special hospitals and ambulatory
7 surgical facilities, in accordance with the minimum staffing
8 requirements that are established by the bill. The regulations
9 adopted by the Commissioner of Health are not to decrease any
10 staffing ratios that are already in effect on the bill's effective date.

11 The bill provides that the Commissioner of Health is to require
12 all general and special hospitals and ambulatory surgical facilities
13 to employ an acuity and staffing system for the purpose of
14 increasing staffing levels above the minimum levels established in
15 the bill, or otherwise provided by law or regulation, in order to
16 ensure adequate staffing of each unit, service, or department.

17 The bill requires the Department of Health to enforce the bill's
18 requirements by conducting periodic inspections and responding to
19 complaints. A registered professional nurse or other staff member,
20 a collective bargaining agent of a staff member, or a member of the
21 public, who believes that the hospital or facility in which the nurse
22 or staff member is employed is in violation of the requirements
23 established by the bill, may file a complaint with the Commissioner
24 of Health. In responding to a complaint, the commissioner will be
25 required to conduct an investigation to determine whether or not a
26 hospital or facility is in violation.

27 Following the completion of an investigation, in which
28 investigation the department determines a hospital or facility to be
29 in violation of the requirements established by the bill, the hospital
30 or facility may be issued a civil penalty in increasing amounts for
31 repeat violations. Any money collected by the court in payment of
32 a civil penalty imposed will be conveyed to the State Treasurer for
33 deposit into the Patient Protection and Staffing Fund (fund)
34 established by the bill.

35 Moneys in the fund will be dedicated and used only for the
36 purposes of increasing the number of inspectors employed by the
37 Department of Health to enforce the provisions of the bill,
38 advancing nursing recruitment and retentions programs, supporting
39 student loan forgiveness for nursing students, and increasing pay for
40 nursing teaching staff.

41 Finally, in addition to the above-described requirements
42 applicable to the Commissioner of Health, the bill requires the
43 Commissioner of Human Services to conduct a review of
44 Department of Human Services regulations concerning registered
45 professional nurse staffing standards in developmental centers and
46 State psychiatric hospitals, and to revise the regulations, as
47 appropriate, to reflect safe staffing practices and assure adequate
48 staffing at the facilities.