

JAN 25 2006

A BILL FOR AN ACT

RELATED TO HEALTH CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes the fundamental need
2 to promote quality health care and improve the delivery of
3 health care services to patients in health care facilities in
4 Hawaii. Hospital nurse staffing is a matter of major concern
5 because of the effects it can have on patient safety and quality
6 of care.

7 Recent changes in healthcare delivery systems have resulted
8 in higher acuity levels among patients. Acuity determines how
9 much care a patient needs; the higher the acuity level, the more
10 care is required, and often more specialized care. The Joint
11 Commission on Accreditation of Healthcare Organizations report
12 of 2002 concluded that the lack of direct care provided by
13 registered nurses contributed to nearly a quarter of the
14 unanticipated problems that resulted in injury or death to
15 hospital patients.

16 Establishing standards for direct care registered nurse-to-
17 patient ratios that take into account acuity measures based on
18 the American Nurses Association's staffing principles will



1 protect nurses and patients from possible harmful ramifications
2 of unsafe staffing practices. Additionally, these standards
3 will address the nursing shortage in Hawaii, aide in recruitment
4 of new registered nurses and licensed practical nurses, and
5 improve retention of nurses who are considering leaving direct
6 patient care because of demands created by constant inadequate
7 and inappropriate staffing.

8 The purpose of this Act is to ensure patient safety and
9 quality health care by establishing direct care registered
10 nurse-to-patient staffing requirements in health care
11 facilities.

12 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§321- Nurse staffing standards. (a) Each health care
16 facility shall implement a staffing plan that provides adequate,
17 appropriate, and quality delivery of health care services and
18 protects patient safety.

19 (b) A health care facility's staffing plan shall provide
20 that during each shift within a unit of the health care
21 facility, a direct-care registered nurse shall be assigned to no
22 more than the following number of patients in the unit, subject



1 to acuity that is based upon the American Nurses Association
2 staffing principles:

3 (1) One patient in operating room units and trauma
4 emergency units;

5 (2) Two patients in critical care and intensive care
6 units, labor and delivery units, and post-anesthesia
7 units;

8 (3) Three patients in ante-partum units, emergency room
9 units, pediatric units, step-down units, and telemetry
10 units;

11 (4) Four patients in intermediate care nursery units,
12 medical/surgical units, and acute care psychiatric
13 units;

14 (5) Five patients in rehabilitation units; and

15 (6) Six patients in postpartum (3 couplets) units and
16 well-baby nursery units.

17 (c) If necessary to protect patient safety, and after
18 consultation with affected health care facilities' registered
19 nurses, the department of health may adopt rules that:

20 (1) Change the minimum direct care registered nurse-to-
21 patient ratios under this subsection to further limit



1 the number of patients that may be assigned to each
2 direct care nurse; or

3 (2) Add minimum direct care registered nurse-to-patient
4 ratios for units not referred to in subsection (a).

5 (d) This section shall not apply during a declared state
6 of emergency if a healthcare facility is requested or expected
7 to provide an exceptional level of emergency or other medical
8 services.

9 (e) In developing the staffing plan, a healthcare facility
10 shall provide for direct care registered nurse-to-patient ratio
11 under subsection (b) in conjunction with the American Nurses
12 Association's staffing principles addressing the following
13 factors:

14 (1) The anticipated admissions, discharges, and transfers
15 of patients during each shift that impacts direct
16 patient care;

17 (2) Specialized experience required of direct care
18 registered nurses on a particular unit;

19 (3) Staffing levels and services provided by other
20 healthcare personnel in meeting direct patient care
21 needs not required by a direct care registered nurse;



1 (4) The level of technology available that affects the
2 delivery of direct patient care;

3 (5) The level of familiarity with hospital practices,
4 policies, and procedures by temporary agency direct
5 care registered nurses used during a shift; and

6 (6) Obstacles to efficiency in the delivery of patient
7 care presented by physical layout.

8 (f) A healthcare facility shall specify the system used to
9 document actual staffing in each unit for each shift.

10 (g) A healthcare facility shall annually evaluate its
11 staffing plan in each unit in relation to actual patient care
12 requirements, and the accuracy of its acuity system.

13 (h) A healthcare facility shall update its staffing plan
14 and acuity system to the extent appropriate based on outcomes
15 research and evaluation of nursing indicators reflected in the
16 American Nurses Association's staffing principles.

17 (i) A staffing plan of each healthcare facility shall be
18 developed and subsequent reevaluations shall be conducted under
19 this section on the basis of input from direct care registered
20 nurses at the healthcare facility, or where these nurses are
21 represented through collective bargaining, from the exclusive
22 representative of the nurses.



1 (j) Each healthcare facility shall submit to the
2 department of health's office of health care assurance its
3 staffing plan and any annual updates.

4 (k) The office of health care assurance shall adjust
5 payments made to healthcare facilities (other than federally
6 operated hospitals) under the Social Security Act, 42 United
7 States Code section 1395 (2005), in an amount equal to the net
8 amount of additional costs incurred in providing services to
9 medicare beneficiaries that are attributable to compliance with
10 requirements of this section.

11 (l) A nurse may refuse to accept an assignment as a nurse
12 in a healthcare facility if:

- 13 (1) The assignment would violate this section; or
14 (2) The nurse is not prepared by education, training, or
15 experience to fulfill the assignment without
16 compromising the safety of any patient or jeopardizing
17 the license of the nurse.

18 (m) No health care facility shall discharge, discriminate,
19 or retaliate in any manner with respect to any aspect of
20 employment, including discharge, promotion, compensation, or
21 terms, conditions, or privileges of employment against a nurse
22 based on the nurse's refusal of a work assignment.

1 (n) No hospital shall file a complaint or a report against
2 a nurse with the state board of nursing because of the nurse's
3 refusal of a work assignment under subsection (l).

4 (o) Any nurse who has been discharged and discriminated
5 against under this section, retaliated against in violation of
6 subsection (m), or against whom a complaint has been filed in
7 violation of subsection (n) may bring a cause of action in a
8 United States district court. A nurse who prevails on the cause
9 of action shall be entitled to one or more of the following:

10 (1) Reinstatement;

11 (2) Reimbursement of lost wages, compensation, and
12 benefits;

13 (3) Attorney's fees;

14 (4) Court costs; and

15 (5) Other damages.

16 (p) A nurse or other individual may file a complaint with
17 the department of health against a health care facility that
18 violates this section. For any complaint filed, the department
19 of health's office of health care assurance shall:

20 (1) Receive and investigate the complaint;

21 (2) Determine whether a violation as alleged in the
22 complaint has occurred; and



1 (3) If such a violation has occurred, issue an order that
2 the complaining nurse or individual shall not suffer
3 any retaliation under subsections (m), (n), or (o).

4 (q) A hospital shall not discriminate or retaliate in any
5 manner with respect to any aspect of employment, including
6 hiring, discharge, promotion, compensation, or terms,
7 conditions, or privileges of employment against any individual
8 who in good faith, individually or in conjunction with another
9 person or persons:

10 (1) Reports a violation or a suspected violation of this
11 title to the department of health, a public regulatory
12 agency, a private accreditation body, or the
13 management personnel of the hospital;

14 (2) Initiates, cooperates, or otherwise participates in an
15 investigation or proceeding brought by the department
16 of health's office of health care assurance, a public
17 regulatory agency, or a private accreditation body
18 concerning matters covered by this title; or

19 (3) Informs or discusses with other individuals or with
20 representatives of hospital employees a violation or
21 suspected violation of this title.



1 For purpose of this subsection, an individual shall be
2 deemed to be acting in good faith if the individual reasonably
3 believes the information reported or disclosed is true and a
4 violation of this title has occurred or may occur.

5 (r) A hospital shall post in an appropriate location in
6 each unit a conspicuous notice in a form specified by the
7 department of health that:

8 (1) Explains the rights of nurses and other individuals
9 under this subsection;

10 (2) Includes a statement that a nurse or other individual
11 may file a complaint with the department of health
12 against a healthcare facility that violates the
13 provisions of this title; and

14 (3) Provides instructions on how to file a complaint under
15 paragraph (2).

16 (s) The director of health shall adopt rules pursuant to
17 chapter 91 to effectuate the purpose of this section.

18 (t) As used in this section:

19 "Declared state of emergency" means a state of emergency
20 that has been declared by the state or federal government, but
21 does not include a state of emergency that results from a labor
22 dispute in the health care industry or consistent understaffing.



1 "Health care facility" means a health care facility as
2 defined in section 323D-2."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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SB. NO. 3023

Report Title:

Nurses; Staffing Requirements

Description:

Establishes direct care registered nurse-to-patient staffing requirements in health care facilities to ensure patient safety and quality health care.

