
A BILL FOR AN ACT

RELATING 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 medical care and improve the delivery of
3 services to patients in health care facilities in Hawaii.
4 Health care facility 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 health-care-delivery systems have
8 resulted in higher acuity levels among patients. Acuity
9 determines how much care a patient needs; the higher the acuity
10 level, the more care required, and often more specialized care
11 is necessary. "The Joint Commission on Accreditation of
12 Healthcare Organizations" report of 2002 concluded that the lack
13 of direct care provided by registered nurses contributed to
14 nearly a quarter of the unanticipated problems that resulted in
15 injury or death to health care facility 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:

- 4 (1) Address the nursing shortage in Hawaii;
- 5 (2) Aid in recruitment of new registered nurses and
6 licensed practical nurses; and
- 7 (3) Improve retention of nurses who are considering
8 leaving direct patient care because of demands created
9 by constant inadequate and inappropriate staffing.

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

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

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

21 (b) A health care facility's staffing plan shall provide
22 that during each shift within a unit of the health care



1 facility, a direct-care registered nurse shall be assigned to no
2 more than the following number of patients in the unit, subject
3 to acuity that is based upon the American Nurses Association
4 staffing principles:

- 5 (1) One patient in operating room units or trauma
6 emergency units;
- 7 (2) Two patients in critical care and intensive care
8 units, labor and delivery units, or post-anesthesia
9 units;
- 10 (3) Three patients in ante-partum units, emergency room
11 units, pediatric units, step-down units, or telemetry
12 units;
- 13 (4) Four patients in intermediate care nursery units,
14 medical/surgical units, or acute care psychiatric
15 units;
- 16 (5) Five patients in rehabilitation units; and
- 17 (6) Six patients in postpartum (3 couplets) units or well-
18 baby nursery units.

19 (c) In developing the staffing plan, a health care
20 facility shall provide for direct care registered nurse-to-
21 patient ratio under subsection (b) in conjunction with the



1 American Nurses Association's staffing principles addressing the
2 following factors:

3 (1) The anticipated admissions, discharges, and transfers
4 of patients during each shift that impact direct
5 patient care;

6 (2) Specialized experience required of direct care
7 registered nurses in a particular unit;

8 (3) Staffing levels and services provided by other health
9 care personnel in meeting direct patient care needs
10 not required by a direct care registered nurse;

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

13 (5) The level of familiarity with health care facility
14 practices, policies, and procedures by temporary-
15 agency direct care registered nurses used during a
16 shift; and

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

19 (d) A health care facility shall specify the system used
20 to document actual staffing in each unit for each shift.

21 (e) A health care facility shall annually evaluate its
22 staffing plan in each unit in relation to actual patient care



1 requirements and the accuracy of its acuity system, and shall
2 update its staffing plan and acuity system to the extent
3 appropriate based on outcomes research and evaluation of nursing
4 indicators reflected in the American Nurses Association's
5 staffing principles.

6 Evaluations shall be conducted under this subsection on the
7 basis of input from direct care registered nurses at the health
8 care facility, or where these nurses are represented through
9 collective bargaining, from the exclusive representative of the
10 nurses.

11 (f) Each health care facility shall submit to the
12 department's office of health care assurance its staffing plan
13 and any annual updates.

14 (g) The office of health care assurance shall adjust
15 payments made to health care facilities, other than federally
16 operated health care facilities, under the Social Security Act,
17 42 United States Code Section 1395 (2005), in an amount equal to
18 the net amount of additional costs incurred in providing
19 services to medicare beneficiaries that are attributable to
20 compliance with requirements of this section.

21 (h) A nurse may refuse to accept an assignment as a nurse
22 in a health care facility if:



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

6 No health care facility shall discharge, discriminate, or
7 retaliate in any manner with respect to any aspect of
8 employment, including discharge, promotion, compensation, or
9 terms, conditions, or privileges of employment against a nurse
10 based on the nurse's refusal of a work assignment pursuant to
11 this subsection.

12 No health care facility shall file a complaint or a report
13 against a nurse with the state board of nursing because of the
14 nurse's refusal of a work assignment under this subsection.

15 (i) Any nurse who has been discharged, discriminated
16 against, retaliated against, or against whom a complaint has
17 been filed in violation of subsection (h) may bring a cause of
18 action in a state district court. A nurse who prevails on the
19 cause of action shall be entitled to one or more of the
20 following:

- 21 (1) Reinstatement;



- 1 (2) Reimbursement of lost wages, compensation, and
- 2 benefits;
- 3 (3) Attorney's fees;
- 4 (4) Court costs; and
- 5 (5) Other damages.
- 6 (j) A nurse or other individual may file a complaint with
- 7 the department against a health care facility that violates this
- 8 section. For any complaint filed, the department's office of
- 9 health care assurance shall:
- 10 (1) Receive and investigate the complaint;
- 11 (2) Determine whether a violation as alleged in the
- 12 complaint has occurred; and
- 13 (3) If such a violation has occurred, issue an order that
- 14 the complaining nurse or individual shall not suffer
- 15 any retaliation pursuant to subsection (k).
- 16 (k) No health care facility shall discriminate or
- 17 retaliate in any manner with respect to any aspect of
- 18 employment, including hiring, discharge, promotion,
- 19 compensation, or terms, conditions, or privileges of employment
- 20 against any individual who in good faith, individually or in
- 21 conjunction with another person or persons:



- 1 (1) Reports a violation or a suspected violation of this
2 section to the department, a public regulatory agency,
3 a private accreditation body, or the management
4 personnel of the health care facility;
- 5 (2) Initiates, cooperates, or otherwise participates in an
6 investigation or proceeding brought by the
7 department's office of health care assurance, a public
8 regulatory agency, or a private accreditation body
9 concerning matters covered by this section; or
- 10 (3) Informs or discusses with other individuals or with
11 representatives of health care facility employees a
12 violation or suspected violation of this section.
- 13 (1) Every health care facility shall post in an
14 appropriate location in each unit a conspicuous notice in a form
15 specified by the department that:
- 16 (1) Explains the rights of nurses and other individuals
17 under this section;
- 18 (2) Includes a statement that a nurse or other individual
19 may file a complaint with the department of health
20 against a health care facility that violates the
21 provisions of this section; and
- 22 (3) Provides instructions on how to file a complaint.



1 (m) The director of health shall adopt rules pursuant to
2 chapter 91 to effectuate the purposes of this section.

3 (n) If necessary to protect patient safety, and after
4 consultation with affected health care facilities' registered
5 nurses, the department may adopt rules pursuant to chapter 91
6 that:

7 (1) Change the minimum direct care registered nurse-to-
8 patient ratios under this section to further limit the
9 number of patients that may be assigned to each direct
10 care nurse; or

11 (2) Add minimum direct care registered nurse-to-patient
12 ratios for units not referred to in subsection (b).

13 (o) This section shall not apply during a declared state
14 of emergency if a health care facility is requested or expected
15 to provide an exceptional level of emergency or other medical
16 services.

17 (p) As used in this section:

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

22 "Department" means the department of health.



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.

5

INTRODUCED BY: Maile B. Lee
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Report Title:

Nurse-to-Patient Staffing Requirements

Description:

Ensures patient safety and quality health care by establishing direct care registered nurse-to-patient staffing requirements in health care facilities.

