

JAN 22 2008

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 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 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
10 acuity level, the more care is required including more
11 specialized care. 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 hospital patients.

16 The legislature finds that establishing standards for
17 direct care registered nurse-to-patient ratios that take into



1 account acuity measures based on the American Nurses
2 Association's staffing principles will protect nurses and
3 patients from possible harmful ramifications of unsafe staffing
4 practices. In addition, these standards will address the
5 nursing shortage in Hawaii, aid in recruitment of new registered
6 nurses and licensed practical nurses, and improve retention of
7 nurses who are considering leaving direct patient care because
8 of demands created by constant inadequate and inappropriate
9 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 adequate,
19 appropriate, and quality delivery of health care services and
20 protects patient safety.

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



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

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

19 (c) If necessary to protect patient safety, and after
20 consultation with affected health care facilities' registered
21 nurses, the department of health may adopt rules in accordance
22 with chapter 91 that:



1 (1) Change the minimum direct care registered nurse-to-
2 patient ratios to further limit the number of patients
3 that may be assigned to each direct care nurse; or

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

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

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

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

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

20 (3) Staffing levels and services provided by other health
21 care personnel in meeting direct patient care needs
22 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 health care facility shall specify the system used
9 to document actual staffing in each unit for each shift.

10 (g) A health care facility shall evaluate annually 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 health care 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 for each health care 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 health care facility, or where these nurses are
21 represented through collective bargaining, from the exclusive
22 representative of the nurses.



1 (j) Each health care 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 health care 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 health care 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



1 based on the nurse's refusal of a work assignment pursuant to
2 subsection (l).

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

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

12 (1) Reinstatement;

13 (2) Reimbursement of lost wages, compensation, and
14 benefits;

15 (3) Attorney's fees;

16 (4) Court costs; and

17 (5) Other damages.

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

22 (1) Receive and investigate the complaint;



- 1 (2) Determine whether a violation as alleged in the
- 2 complaint has occurred; and
- 3 (3) If a violation has occurred, issue an order that the
- 4 complaining nurse or individual shall not suffer any
- 5 retaliation under subsection (m) or (n).
- 6 (q) A hospital shall not discriminate or retaliate in any
- 7 manner with respect to any aspect of employment, including
- 8 hiring, discharge, promotion, compensation, or terms,
- 9 conditions, or privileges of employment against any individual
- 10 who, in good faith, individually or in conjunction with another
- 11 person or persons:
- 12 (1) Reports a violation or a suspected violation of this
- 13 section to the department of health, a public
- 14 regulatory agency, a private accreditation body, or
- 15 the management personnel of a hospital;
- 16 (2) Initiates, cooperates, or otherwise participates in an
- 17 investigation or proceeding brought by the department
- 18 of health's office of health care assurance, a public
- 19 regulatory agency, or a private accreditation body
- 20 concerning matters covered by this section; or



1 (3) Informs or discusses with other individuals or
 2 representatives of hospital employees a violation or
 3 suspected violation of this section.

4 For purposes of this subsection, an individual shall be deemed
 5 to be acting in good faith if the individual reasonably believes
 6 the information reported or disclosed is true and a violation of
 7 this section has occurred or may occur.

8 (r) A health care facility shall post in an appropriate
 9 location in each unit a conspicuous notice in a form specified
 10 by the department of health that:

11 (1) Explains the rights of nurses and other individuals
 12 under this section;

13 (2) Includes a statement that a nurse or other individual
 14 may file a complaint with the department of health
 15 against a health care facility that violates the
 16 provisions of this section; and

17 (3) Provides instructions on how to file a complaint under
 18 this section.

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

21 (t) As used in this section:



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

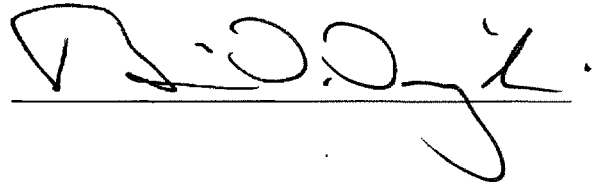
5 "Health care facility" has the same meaning as in section
6 323D-2."

7 SECTION 3. New statutory material is underscored.

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

9

INTRODUCED BY:



Report Title:

Health Care Facilities; Nurse Staffing Standards

Description:

Creates nurse-to-patient staffing requirements in health care facilities.

