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**SENATE BILL 5672**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Conway, Keiser, Hasegawa, Kohl-Welles, Fraser, Benton, and Darneille

AN ACT Relating to nursing staffing practices at hospitals; amending RCW 70.41.420; adding new sections to chapter 70.41 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. **Sec.**  The legislature finds that:

(1) Research demonstrates the critical role that registered nurses play in improving patient safety and quality of care;

(2) Greater numbers of registered nurses available to care for hospitalized patients are key to reducing errors, complications, and adverse patient care events;

(3) Higher nurse staffing levels result in improved staff safety and satisfaction and reduced incidences of workplace injuries;

(4) Health care professional, technical, and support staff comprise vital components of the patient care team, bringing their particular skills and services to ensuring quality patient care; and

(5) Assuring sufficient nurse staffing to meet patient care needs is an urgent public policy priority in order to protect patients, support greater retention of registered nurses and safer working conditions, promote evidence-based nurse staffing, and increase transparency of health care data and decision making.

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

(1) By June 30, 2016, the department, with stakeholder input, shall:

(a) Adopt patient assignment limits; and

(b) Recommend quality indicators in addition to those specified in section 4 of this act.

(2) Patient assignment limits apply:

(a) To individual registered nurse assignments, and may not be construed as establishing average assignments for a hospital or patient care unit; and

(b) At all times that a registered nurse is on duty, including times when other nurses are away from the unit, on a break, or otherwise not providing patient care.

(3) The established patient assignment limits apply to all hospitals in the state. These patient assignment limits represent the maximum number of patients for which any registered nurse may be assigned at any one time to provide care. This number includes patients for whose care the registered nurse is responsible, but for whom aspects of care have been delegated to other nursing personnel. The department may establish different limits for different types of patient care units or areas.

(4) Patient assignment limits serve as a minimum staffing standard. However, compliance with these patient assignment limits alone is not sufficient to demonstrate compliance with the requirements for development and implementation of staffing plans under RCW 70.41.420. Actual staffing levels on any hospital unit during any shift must be determined by the staffing plan developed by the hospital nurse staffing committee consistent with RCW 70.41.420.

(5) A registered nurse may not be assigned to a nursing unit or clinical area unless the nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area and has demonstrated current competence in providing care in that area.

(6) The written policies and procedures for orientation of nursing staff must require that all temporary personnel receive orientation and be subject to competency validation.

**Sec.**  RCW 70.41.420 and 2008 c 47 s 3 are each amended to read as follows:

(1) By September 1, 2008, each hospital shall establish a nurse staffing committee, either by creating a new committee or assigning the functions of a nurse staffing committee to an existing committee. At least one-half of the members of the nurse staffing committee shall be registered nurses currently providing direct patient care and up to one-half of the members shall be determined by the hospital administration. The selection of the registered nurses providing direct patient care shall be according to the collective bargaining agreement if there is one in effect at the hospital. If there is no applicable collective bargaining agreement, the members of the nurse staffing committee who are registered nurses providing direct patient care shall be selected by their peers.

(2) Participation in the nurse staffing committee by a hospital employee shall be on scheduled work time and compensated at the appropriate rate of pay. Nurse staffing committee members shall be relieved of all other work duties during meetings of the committee.

(3) Primary responsibilities of the nurse staffing committee shall include:

(a) Development and oversight of an annual patient care unit and shift-based nurse staffing plan, based on the needs of patients, to be used as the primary component of the staffing budget. Factors to be considered in the development of the plan should include, but are not limited to:

(i) Census, including total numbers of patients on the unit on each shift and activity such as patient discharges, admissions, and transfers;

(ii) Level of intensity of all patients and nature of the care to be delivered on each shift;

(iii) Skill mix;

(iv) Level of experience and specialty certification or training of nursing personnel providing care;

(v) The need for specialized or intensive equipment;

(vi) The architecture and geography of the patient care unit, including but not limited to placement of patient rooms, treatment areas, nursing stations, medication preparation areas, and equipment; ((~~and~~))

(vii) Staffing guidelines adopted or published by national nursing professional associations, specialty nursing organizations, and other health professional organizations; and

(viii) Availability of other personnel supporting nursing services on the unit;

(b) Semiannual review of the staffing plan against patient need and known evidence-based staffing information, including the nursing sensitive quality indicators collected by the hospital;

(c) Review, assessment, and response to staffing concerns presented to the committee.

(4) In addition to the factors listed in subsection (3)(a) of this section, hospital finances and resources may be taken into account in the development of the nurse staffing plan.

(5) The staffing plan must not diminish other standards contained in state or federal law and rules, or the terms of an applicable collective bargaining agreement, if any, between the hospital and a representative of the nursing staff.

(6) ((~~The committee will produce the hospital's annual nurse staffing plan. If this staffing plan is not adopted by the hospital, the chief executive officer shall provide a written explanation of the reasons why to the committee.~~)) Beginning June 30, 2017, each hospital shall submit the staffing plan to the department on at least an annual basis.

(7) Beginning June 30, 2017, each hospital shall implement the staffing plan and assign nursing personnel to each patient care unit in accordance with the plan. Shift-to-shift adjustments in staffing levels required by the plan may be made only if based upon assessment by a registered nurse providing direct patient care on the patient care unit, utilizing procedures specified by the staffing committee.

(8) Each hospital shall post, in a public area on each patient care unit, the nurse staffing plan and the nurse staffing schedule for that shift on that unit, as well as the relevant clinical staffing for that shift. The staffing plan and current staffing levels must also be made available to patients and visitors upon request.

((~~(8)~~)) (9) A hospital may not retaliate against or engage in any form of intimidation of:

(a) An employee for performing any duties or responsibilities in connection with the nurse staffing committee; or

(b) An employee, patient, or other individual who notifies the nurse staffing committee ((~~or~~)), the hospital administration, an agent of the collective bargaining, or the department of his or her concerns ((~~on~~)) regarding nurse staffing that (i) violates the nurse staffing plan or patient assignment limits or (ii) the employee, patient, or other individual believes is otherwise insufficient or unsafe.

((~~(9)~~)) (10) A hospital may not penalize any registered nurse for refusing to accept an assignment that violates the hospital staffing plan described in this section, or the restrictions described in section 2(5) of this act, as long as the registered nurse first informs the hospital in writing that he or she has concluded that, in his or her professional judgment and nursing practice licensure standards, accepting the assignment would place one or more patients at immediate risk of serious harm or injury.

(11) This section is not intended to create unreasonable burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4. Critical access hospitals may develop flexible approaches to accomplish the requirements of this section that may include but are not limited to having nurse staffing committees work by telephone or electronic mail.

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

(1) Hospitals shall regularly collect information regarding nurse staffing and submit it to the department semiannually. This information must include:

(a) Nursing staff skill mix, including registered nurses, licensed practical nurses, and unlicensed assistive personnel;

(b) Nursing hours per patient day;

(c) Nurse voluntary turnover rate; and

(d) Nurses supplied by temporary staffing agencies including traveling nurses.

(2) In adopting rules under this section, the department shall determine effective means for making the information identified in subsection (1) of this section readily available to the public, including posting it in public areas of the hospital and making it available through the internet.

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

(1)(a) Upon receipt of a complaint for a violation of section 2 of this act, RCW 70.41.420, or section 4 of this act, if the hospital has not had a final finding of a violation of those provisions within the previous twenty-four months, the department shall investigate the complaint and, if the department determines that there has been a violation of those sections, require the hospital to submit a corrective plan of action.

(b) Upon receipt of a complaint for a violation of section 2 of this act, RCW 70.41.420, or section 4 of this act, if the hospital has had a final finding of a violation of those provisions within the previous twenty-four months, the department shall investigate the complaint and conduct an audit of the hospital's compliance with those sections.

(2) Where a hospital is found to be out of compliance with the requirements of sections 2 and 4 of this act and RCW 70.41.420, the department shall at a minimum require the hospital to submit a corrective plan of action. In the event that a hospital fails to submit or submits but fails to follow such a corrective plan of action, the department may impose a civil penalty of ten thousand dollars.

(3) In addition, in the event that a hospital is found to have committed a knowing violation or repeated violations of the requirements of sections 2 and 4 through 6 of this act and RCW 70.41.420, the department may take either or both of the following actions:

(a) Suspend or revoke the license of a hospital; or

(b) Impose civil penalties as follows:

(i) Two thousand five hundred dollars for a first knowing violation of the requirements of sections 2 and 4 through 6 of this act and RCW 70.41.420;

(ii) Five thousand dollars for the second violation of the requirements of sections 2 and 4 through 6 of this act and RCW 70.41.420 within a six-month period; and

(iii) Ten thousand dollars for the third and each subsequent violation of the requirements of sections 2 and 4 through 6 of this act and RCW 70.41.420 within a six-month period.

(4) The department shall maintain for public inspection records of any civil penalties, administrative actions, or license suspensions or revocations imposed on hospitals under this section.

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

The department shall adopt rules as necessary to implement sections 2, 4, and 5 of this act and RCW 70.41.420.

NEW SECTION. **Sec.**  This act may be known and cited as the Washington state patient safety act.

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