

SENATE BILL REPORT

SB 6307

As of February 7, 2012

Title: An act relating to nursing staffing practices at hospitals.

Brief Description: Concerning nursing staffing practices at hospitals.

Sponsors: Senators Prentice, Conway, Pridemore, Harper, Kohl-Welles, Keiser, Kline and Shin.

Brief History:

Committee Activity: Health & Long-Term Care: 1/30/12, 2/02/12 [DPS-WM, DNP].
Ways & Means: 2/06/12.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 6307 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Frockt, Kline and Pflug.

Minority Report: Do not pass.

Signed by Senators Becker, Ranking Minority Member; Carrell and Parlette.

Staff: Veronica Warnock (786-7490)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Devon Nichols (786-7716)

Background: In 2008 legislation was enacted requiring all hospitals to establish nurse staffing committees to develop annual nurse staffing plans based on the needs of patients. Factors to be considered in developing a nurse staffing plan include census, patient intensity, skill mix, experience and training of nursing personnel, equipment and geography of the patient care unit, and nationally published staffing guidelines. The committee may also take hospital finances into account; conduct semi-annual reviews of the staffing plan against patient need and known evidence-based information; and review, assess, and respond to staffing concerns presented to the committee. The committee produces the hospital's annual nurse staffing plan and, if the plan is not adopted by the hospital, the chief executive officer must provide a written explanation to the committee. If the plan is adopted, the hospital must post the nurse staffing plan, and the nurse staffing schedule with relevant clinical staffing for

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that shift, in a public area in each patient care unit. The 2008 legislation also prohibited hospitals from retaliating against or intimidating individuals for performing duties related to the nurse staffing committee or for notifying the committee or hospital of concerns related to nurse staffing.

Summary of Bill (Recommended Substitute): Legislative Findings. The Legislature makes findings regarding the role of adequate nurse staffing in improving patient care; increasing nurse retention rates and transparency of health care data; creating safer working environments; and promoting evidence-based nurse staffing.

Nurse Staffing Plans. If a hospital does not adopt the annual staffing plan produced by the nurse staffing committee, the committee and the hospital must come to an agreement regarding the staffing plan through arbitration which shall be held pursuant to the Uniform Arbitration Act. Hospitals must submit the adopted nurse staffing plan to DOH on an annual basis.

Nurse Staffing Information. Hospitals must also regularly collect information regarding nurse staffing and submit it to DOH semi-annually. The information must include: nursing staff skill mix, nursing hours per patient day, nurse voluntary turnover rate, nurses supplied by temporary staffing agencies, death among surgical inpatients with treatable serious complications, rates of patient falls with injury, physical restraint prevalence, catheter-associated urinary tract infection rate, central line associated blood stream infection rate, psychiatric patient assault rate, pressure ulcers, and other measures established by DOH. DOH must determine effective means to make this information available to the public.

Retaliation. A hospital may not retaliate against an individual who notifies DOH, the nurse staffing committee, the hospital, or a collective bargaining agent of their concerns regarding nurse staffing that is unsafe or in violation of a nurse staffing plan. A hospital may not penalize a nurse for refusing an assignment that violates a nurse staffing plan as long as the nurse informs the hospital in writing that they believe accepting the assignment would place one or more patients at immediate risk of harm or injury.

Enforcement. DOH must conduct regular audits and investigate complaints regarding hospitals' compliance with requirements related to nurse staffing plans, orientation in clinical areas and submission of information to DOH. If a hospital is found out of compliance, DOH must require that hospital to submit a corrective plan of action. If the hospital fails to follow the corrective plan, DOH may impose a civil penalty of \$10,000. If a hospital is found to knowingly or repeatedly violate these requirements, DOH may suspend or revoke the hospital's license or impose additional civil penalties.

Rulemaking. DOH must adopt rules to implement these provisions and to implement RCW 70.41.240 which requires DOH to make information regarding conversion of hospitals to nonhospital health care facilities available to the public.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Substitute): DOH is not required to develop and hospitals are not required to implement patient assignment limits (the maximum number of patients that can assigned to one nurse at any one time). If a hospital elects to not adopt the nurse staffing plan

produced by its nurse staffing committee, the hospital and its nurse staffing committee must enter into arbitration pursuant to chapter 7.04A RCW. The decision of the arbitrator regarding the contents of the nurse staffing plan is final and binding on the parties.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Health & Long-Term Care): PRO: Every year 100,000 preventable deaths occur in Washington hospitals. While hospitals have instituted many changes since this statistic was first published in the 1999, the statistic remains the same. This is because nurse staffing levels has not improved. With the recession, nurse staffing levels have only gotten worse. In 2008 the Legislature passed the State Patient Care Act which required hospitals to create a nurse staffing committee to improve patient care and address staffing shortages. The intent was for these committees to work collaboratively with management and figure out the best thing for the patient, hospital, and staff. This is not happening, instead there is still chronic understaffing. This is very frustrating for nurses. Currently experienced and new RN graduates are leaving hospitals at an alarming rate. This is because nurses work in an environment where their professional judgment is ignored at the detriment of patients. They feel like they cannot do their job effectively or provide an adequate level of care. A lot of money is spent on training nurses who then go on to other jobs. The current law needs to be fixed so it can accomplish what it was originally intended to do and hospitals can retain nurses. This issue is not isolated to specific hospitals, the ineffectiveness of the nurse staffing law is a consistent across the state. Nurse staffing limits set the minimum standard. Nurse staffing committees consider individual hospital and unit data in setting unit and shift staff levels. This bill makes sure hospitals are implementing nurse staffing plans. Implementing these plans is less expensive to hospitals than failing to provide adequate care. Lack of adequate staffing has adverse impact to patients and has health and safety implication for employees, employers and their communities. There are multiple studies which show that the California law has saved lives and increased retention of nurses. The 2008 law also created a Ruckelshaus Committee. After three years the committee has concluded that the nurse staffing committees are not functioning as the 2008 law intended and that it has finished its work.

CON: This bill would limit a hospital's ability to provide services to their patients. Hospitals work on a shoestring budget. If minimum nurse staffing levels were to be enacted, rural hospitals may be forced to close. This bill would put more nurses into a system that needs works. This would only make issues facing our hospitals worse. The bill does not provide the flexibility small hospitals need. Some days rural hospitals have no patients, other days all beds are full. Nurse staffing levels require consideration of multiple variable factors. This variability requires flexible staffing levels. A fixed nurse patient ratio does not fit this dynamic. Today nurses have a say regarding daily staffing levels. The implementation of the bill would not allow nurses to make decisions based on what's going on that day and would make nurse staffing issues worse. The 2008 legislation was mutually agreed to by the

hospitals and nurses but this bill has been brought forward unilaterally by nurses. If there are problems with nurse staffing all parties need to be part of developing a solution. CEO's need to be able to veto nurse staffing plans and hospitals should not be subject to civil penalties. You cannot fix hospital specific problems legislatively. The implementation of California nurse staffing ratios required the cutting of nurse support staff in order to pay for the additional nurses. Even with eliminating support staff, the cost to hospitals created an incredible financial burden. If this bill is passed it will result in the loss of jobs and limit access to care. Washington has better patient outcomes than California even though it has not spent \$87 million on implementing nurse ratios. The problem is not nurse ratios, it is workforce development. Nurses working today were not trained to work in the modern hospital environment. Nurse staffing committees need to redesign work habits, work routines and work flow so they do not feel so busy. Decisions regarding this bill need to be based on science not emotion. Nurse ratios interfere with nurse's ability to design work flow and provide safe flexible nursing care, to protect patient safety at the local level.

Persons Testifying (Health & Long-Term Care): PRO: Chris Barton, Beth Beadling, SEIU Healthcare 1199 NN; Dawn Morrell, Anne Tan Piazza, WA State Nurses Assn.; Jane Teske, United Food and Commercial Workers International Union; Rebecca Johnson, WA State Labor Council.

CON: Brenda West, Mark Reed Hospital; Lisa Thatcher, WA State Hospital Assn.; Valerie Kilpatrick, St. Francis Hospital; Cindy Mayo, Providence Centralia Hospital; June Altaras, Swedish Health Services; Ellen Noel, Virginia Mason Medical Center.

Staff Summary of Public Testimony on Substitute (Ways & Means): PRO: Adequate RN staffing will not only save lives, improve patient care and increase nurse retention, it will also make good business sense for hospitals. This bill will set a statewide minimum standard for care, regardless of where you are in the state. Arbitrators do not have the medical nursing practice or health care delivery expertise to make a determination on a staffing plan. Arbitration proceedings would create a conflict of interest and would delay the work of staffing committees. Increased nurse staffing is a revenue generator for hospitals and necessary for cost avoidance.

CON: The current safe staffing legislation is working and encourages collaborative consensus and fiscal responsibility. The proposed language offers two options: agree to the staffing committee plan which puts a staffing ratio into place or disagree to the plan and proceed with costly, timely arbitration. Section 3 of the bill takes overall budgetary oversight away from our locally elected board and CEO and places it into the hands of an arbitrator if staff and management do not reach consensus. We do not understand the need for section 2 as it is already related to collective bargaining. There was no collaboration on the drafting of this legislation - the bill before you unwinds the areas that we agreed to in 2008.

Persons Testifying (Ways & Means): PRO: Chris Barton, SEIU 1199 NW; Anne Tan Piazza, WA State Nurses Assn.; Sharon Ness, UFCW 141; Louise Kaplan, WA State Nurses Assn.

CON: Kristen Fox, Kadlec Health Systems; Eric Moll, Mason General Hospital; Lisa Thatcher, WA State Hospital Assn.