

SHB 1714 - H AMD 280

By Representative Cody

ADOPTED 03/07/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

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

6 (2) Appropriate staffing of hospital personnel including
7 registered nurses available for patient care assists in reducing
8 errors, complications, and adverse patient care events and can
9 improve staff safety and satisfaction and reduce incidences of
10 workplace injuries;

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

14 (4) Assuring sufficient staffing of hospital personnel, including
15 registered nurses, is an urgent public policy priority in order to
16 protect patients and support greater retention of registered nurses
17 and safer working conditions; and

18 (5) Steps should be taken to promote evidence-based nurse
19 staffing and increase transparency of health care data and decision
20 making based on the data.

21 **Sec. 2.** RCW 70.41.420 and 2008 c 47 s 3 are each amended to read
22 as follows:

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

1 applicable collective bargaining agreement, the members of the nurse
2 staffing committee who are registered nurses providing direct patient
3 care shall be selected by their peers.

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

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

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

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

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

20 (iii) Skill mix;

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

23 (v) The need for specialized or intensive equipment;

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

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

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

33 (ix) Strategies to enable nurses to take meal and rest breaks as
34 required by law or the terms of an applicable collective bargaining
35 agreement, if any, between the hospital and a representative of the
36 nursing staff;

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

1 (c) Review, assessment, and response to staffing variations or
2 concerns presented to the committee.

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

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

10 (6) The committee will produce the hospital's annual nurse
11 staffing plan. If this staffing plan is not adopted by the hospital,
12 the chief executive officer shall provide a written explanation of
13 the reasons why the plan was not adopted to the committee and the
14 chief executive officer must either identify those elements of the
15 proposed plan being changed or prepare an alternate annual staffing
16 plan that will be adopted by the hospital. Beginning January 1, 2019,
17 each hospital shall submit its staffing plan to the department and
18 thereafter on an annual basis and at any time in between that the
19 plan is updated.

20 (7) Beginning January 1, 2019, each hospital shall implement the
21 staffing plan and assign nursing personnel to each patient care unit
22 in accordance with the plan.

23 (a) A nurse may report to the staffing committee any variations
24 where the nurse personnel assignment in a patient care unit is not in
25 accordance with the adopted staffing plan and may make a complaint to
26 the committee based on the variations.

27 (b) Shift-to-shift adjustments in staffing levels required by the
28 plan may be made by the appropriate hospital personnel overseeing
29 patient care operations only after consultation with one or more
30 impacted registered nurses providing direct patient care on the
31 patient care unit or units utilizing procedures specified by the
32 staffing committee. If a nurse on a patient care unit objects to a
33 shift-to-shift adjustment, the registered nurse may submit the
34 complaint to the staffing committee.

35 (c) Staffing committees shall develop a process to examine and
36 respond to data submitted under (a) and (b) of this subsection,
37 including the ability to determine if a specific complaint is
38 resolved or dismissing a complaint based on unsubstantiated data.

39 (8) Each hospital shall post, in a public area on each patient
40 care unit, the nurse staffing plan and the nurse staffing schedule

1 for that shift on that unit, as well as the relevant clinical
2 staffing for that shift. The staffing plan and current staffing
3 levels must also be made available to patients and visitors upon
4 request.

5 ~~((+8))~~ (9) A hospital may not retaliate against or engage in any
6 form of intimidation of:

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

9 (b) An employee, patient, or other individual who notifies the
10 nurse staffing committee or the hospital administration of his or her
11 concerns on nurse staffing.

12 ~~((+9))~~ (10) This section is not intended to create unreasonable
13 burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4.
14 Critical access hospitals may develop flexible approaches to
15 accomplish the requirements of this section that may include but are
16 not limited to having nurse staffing committees work by telephone or
17 ~~((electronic mail))~~ email.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41
19 RCW to read as follows:

20 (1)(a) The department shall investigate a complaint for violation
21 of RCW 70.41.420 following receipt of a complaint with documented
22 evidence of failure to:

23 (i) Form or establish a staffing committee;

24 (ii) Conduct a semiannual review of a nurse staffing plan;

25 (iii) Submit a nurse staffing plan on an annual basis and any
26 updates; or

27 (iv) Follow the nursing personnel assignments as adopted by the
28 hospital as evidenced by the aggregate data of concerns for either
29 shift-to-shift adjustment or reports of variations not in accordance
30 with the adopted staffing plan for the hospital. This must be
31 evidenced by a minimum of a sixty-day period of aggregate complaint
32 data filed under RCW 70.41.420(7) (a) and (b) and where the staffing
33 committee has not determined the complaints resolved; except in the
34 event of unforeseeable emergency circumstances or where the hospital,
35 after consultation with the staffing committee, documents it has made
36 reasonable efforts to obtain staffing to meet required assignments
37 but has been unable to do so.

38 (b) The department shall investigate the complaint and, if the
39 department determines that there has been a violation, require the

1 hospital to submit a corrective plan of action within forty-five days
2 of the presentation of findings from the department to the hospital.

3 (2) In the event that a hospital fails to submit or submits but
4 fails to follow such a corrective plan of action in response to a
5 violation or violations found by the department based on a complaint
6 filed pursuant to subsection (1) of this section, the department may
7 impose, for all violations asserted against a hospital at any time, a
8 civil penalty of one hundred dollars per day until the hospital
9 submits or begins to follow a corrective plan of action or takes
10 other action agreed to by the department.

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

14 (4) For purposes of this section, "unforeseeable emergency
15 circumstance" means:

16 (a) Any unforeseen national, state, or municipal emergency;

17 (b) When a health care facility disaster plan is activated;

18 (c) Any unforeseen disaster or other catastrophic event that
19 substantially affects or increases the need for health care services;
20 or

21 (d) When hospitals in a community are diverting patients to other
22 hospitals for treatment.

23 (5) Nothing in this section shall be construed to preclude the
24 ability to otherwise submit a complaint to the department for failure
25 to follow RCW 70.41.420.

26 NEW SECTION. **Sec. 4.** This act may be known and cited as the
27 Washington state patient safety act."

28 Correct the title.

EFFECT: (1) Expands the factors that must be considered in the
development of a nurse staffing plan to include strategies to enable
nurses to take meal and rest breaks as required by law or an
applicable collective bargaining agreement. Requires nurse staffing
committees to review, assess, and respond to staffing variations.
Requires (instead of allows) the nurse staffing committee to take
hospital finances into account when developing the nurse staffing
plan.

(2) Requires a hospital that does not adopt the nurse staffing
committee's plan to identify elements of the proposed plan being
changed or prepare an alternate plan. Changes the date upon which a
hospital must adopt the plan and submit it to the Department of

Health (DOH) to January 1, 2019 (instead of June 30, 2019). Requires updates to the plan to be submitted to the DOH.

(3) Allows a nurse to report to the nurse staffing committee any variations where the nurse personnel assignment in a patient care unit is not in accordance with the staffing plan and to make a complaint to the committee based on the variations. Allows shift-to-shift adjustments in staffing levels only by appropriate hospital personnel overseeing patient care operations and only after consultation with impacted nurses. Allows an affected nurse to submit a complaint to the nurse staffing committee regarding shift-to-shift adjustments. Requires nurse staffing committees to develop a process to examine and respond to data regarding certain complaints, including the ability to determine if a specific complaint is resolved or dismissing a complaint based on unsubstantiated data.

(4) Limits the DOH's ability to impose \$100 per day fines regarding nurse staffing plans to certain circumstances, including failure to: (a) Form or establish a staffing committee, (b) conduct a semiannual review of a nurse staffing plan, (c) submit a nurse staffing plan or update to the DOH, or (d) follow the nursing personnel assignments as adopted by the hospital as evidenced by the aggregate data on concerns for either shift-to-shift adjustments or reports of variations not in accordance with the adopted plan--this must be evidenced by a minimum of a 60-day period of aggregate unresolved complaint data (does not apply in cases of unforeseen emergency circumstances or where the hospital, after consultation with the staffing committee, documents it has made reasonable efforts to obtain staffing to meet required assignments but has been unable to do so). Defines "unforeseen emergency circumstance" as any unforeseen declared national, state, or municipal emergency, when a health care facility disaster plan is activated, any unforeseen disaster or other catastrophic event that substantially affects or increases the need for health care services, or when hospitals in a community are diverting patients to other hospitals for treatment. Requires a hospital's plan of corrective action to be submitted within 45 days of the presentation of findings by the DOH. Clarifies that the \$100 per day fine applies for all violations asserted against a hospital at any time and ends when the hospital submits or begins to follow a corrective plan of action or other action agreed to by the DOH.

(5) Removes the DOH's rule-making authority. Makes changes to the findings section.

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