

ESHB 1714 - S AMD 253  
By Senator Rivers

ADOPTED 04/11/2017

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 registered nurses to take meal and rest  
34 breaks as required by law or the terms of an applicable collective  
35 bargaining agreement, if any, between the hospital and a  
36 representative of the 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. The chief  
14 executive officer must then either: (a) Identify those elements of  
15 the proposed plan being changed prior to adoption of the plan by the  
16 hospital or (b) prepare an alternate annual staffing plan that must  
17 be adopted by the hospital. Beginning January 1, 2019, each hospital  
18 shall submit its staffing plan to the department and thereafter on an  
19 annual basis and at any time in between that the 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 registered nurse may report to the staffing committee any  
24 variations where the nurse personnel assignment in a patient care  
25 unit is not in accordance with the adopted staffing plan and may make  
26 a complaint to 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. If a registered nurse on a patient care unit  
30 objects to a shift-to-shift adjustment, the registered nurse may  
31 submit the complaint to the staffing committee.

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

36 (8) Each hospital shall post, in a public area on each patient  
37 care unit, the nurse staffing plan and the nurse staffing schedule  
38 for that shift on that unit, as well as the relevant clinical  
39 staffing for that shift. The staffing plan and current staffing

1 levels must also be made available to patients and visitors upon  
2 request.

3 ~~((+8))~~ (9) A hospital may not retaliate against or engage in any  
4 form of intimidation of:

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

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

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

16 NEW SECTION. Sec. 3. A new section is added to chapter 70.41  
17 RCW to read as follows:

18 (1)(a) The department shall investigate a complaint submitted  
19 under this section for violation of RCW 70.41.420 following receipt  
20 of a complaint with documented evidence of failure to:

21 (i) Form or establish a staffing committee;

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

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

25 (iv)(A) Follow the nursing personnel assignments in a patient  
26 care unit in violation of RCW 70.41.420(7)(a) or shift-to-shift  
27 adjustments in staffing levels in violation of RCW 70.41.420(7)(b).

28 (B) The department may only investigate a complaint under this  
29 subsection (1)(a)(iv) after making an assessment that the submitted  
30 evidence indicates a continuing pattern of unresolved violations of  
31 RCW 70.41.420(7) (a) or (b), that were submitted to the nurse  
32 staffing committee excluding complaints determined by the nurse  
33 staffing committee to be resolved or dismissed. The submitted  
34 evidence must include the aggregate data contained in the complaints  
35 submitted to the hospital's nurse staffing committee that indicate a  
36 continuing pattern of unresolved violations for a minimum sixty-day  
37 continuous period leading up to receipt of the complaint by the  
38 department.

1 (C) The department may not investigate a complaint under this  
2 subsection (1)(a)(iv) in the event of unforeseeable emergency  
3 circumstances or if the hospital, after consultation with the nurse  
4 staffing committee, documents it has made reasonable efforts to  
5 obtain staffing to meet required assignments but has been unable to  
6 do so.

7 (b) After an investigation conducted under (a) of this  
8 subsection, if the department determines that there has been a  
9 violation, the department shall require the hospital to submit a  
10 corrective plan of action within forty-five days of the presentation  
11 of findings from the department to the hospital.

12 (2) In the event that a hospital fails to submit or submits but  
13 fails to follow such a corrective plan of action in response to a  
14 violation or violations found by the department based on a complaint  
15 filed pursuant to subsection (1) of this section, the department may  
16 impose, for all violations asserted against a hospital at any time, a  
17 civil penalty of one hundred dollars per day until the hospital  
18 submits or begins to follow a corrective plan of action or takes  
19 other action agreed to by the department.

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

23 (4) For purposes of this section, "unforeseeable emergency  
24 circumstance" means:

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

26 (b) When a hospital disaster plan is activated;

27 (c) Any unforeseen disaster or other catastrophic event that  
28 substantially affects or increases the need for health care services;  
29 or

30 (d) When a hospital is diverting patients to another hospital or  
31 hospitals for treatment or the hospital is receiving patients who are  
32 from another hospital or hospitals.

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

36 (6) The department shall submit a report to the legislature on  
37 December 31, 2022. This report shall include the number of complaints  
38 submitted to the department under this section, the disposition of  
39 these complaints, the number of investigations conducted, the  
40 associated costs for complaint investigations, and recommendations

1 for any needed statutory changes. The department shall also project,  
2 based on experience, the impact, if any, on hospital licensing fees  
3 over the next four years. Prior to the submission of the report, the  
4 secretary shall convene a stakeholder group consisting of the  
5 Washington state hospital association, the Washington state nurses  
6 association, service employees international union healthcare 1199NW,  
7 and united food and commercial workers 21. The stakeholder group  
8 shall review the report prior to its submission to review findings  
9 and jointly develop any legislative recommendations to be included in  
10 the report.

11 (7) No fees shall be increased to implement this act prior to  
12 June 1, 2023.

13 NEW SECTION. **Sec. 4.** This act expires June 1, 2023.

14 NEW SECTION. **Sec. 5.** This act may be known and cited as the  
15 Washington state patient safety act."

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**ADOPTED 04/11/2017**

16 On page 1, line 1 of the title, after "hospitals;" strike the  
17 remainder of the title and insert "amending RCW 70.41.420; adding a  
18 new section to chapter 70.41 RCW; creating new sections; prescribing  
19 penalties; and providing an expiration date."

EFFECT: (1) Provides that the Department of Health (DOH) may only investigate a complaint relating to nursing personnel assignments in a patient care unit or shift-to-shift adjustments in staffing levels after DOH makes an assessment that the evidence shows a continuing pattern of unresolved violations, excluding resolved complaints. The evidence must indicate a continuing pattern of unresolved violations for a continuous sixty-day period before the complaint is received by DOH.

(2) Requires DOH to submit a report, after stakeholder review, to the legislature on the number of complaints submitted to DOH, how they were disposed, the number of investigations conducted, and the costs of complaint investigations. This report must also include any impact on hospital licensing fees.

(3) Prohibits fees to be increased to implement the act before June 1, 2023.

(4) Adds an expiration date of June 1, 2023.

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