

ESHB 1714 - S COMM AMD
By Committee on Ways & Means

NOT 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) Prior to investigating a complaint under this subsection
29 (1)(a)(iv), the department shall examine any complaints that were
30 submitted to the hospital's nurse staffing committee under RCW
31 70.41.420(7) (a) or (b) excluding complaints determined by the nurse
32 staffing committee to be resolved or dismissed. The department may
33 only investigate a complaint under this subsection (1)(a)(iv) after
34 making a preliminary finding that the aggregate data contained in the
35 complaints submitted to the committee in a minimum sixty-day
36 continuous period leading up to the receipt of the complaint by the
37 department indicate a continuing pattern of unresolved violations of
38 RCW 70.41.420(7) (a) or (b).

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

NOT ADOPTED 04/11/2017

1 On page 1, line of the title, after "hospitals;" strike the
2 remainder of the title and insert "amending RCW 70.41.420; adding a
3 new section to chapter 70.41 RCW; creating new sections; and
4 prescribing penalties."

EFFECT: (1) Removes the requirement that hospital personnel overseeing patient care operations consult with registered nurses before making shift-to-shift adjustments in staffing levels.

(2) Prohibits the Department of Health (DOH) from investigating a complaint in the event of unforeseeable emergency circumstances, or if a hospital has made reasonable efforts to obtain staffing to meet required assignments.

(3) Allows DOH to investigate complaints relating to staffing assignments or shift-to-shift adjustments in staffing levels only if the data contained in the complaints indicate a continuing pattern of unresolved violations of these policies.

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