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ENGROSSED SUBSTITUTE HOUSE BILL 1714

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State of Washington

65th Legislature

2017 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Doglio, Ryu, Pollet, Peterson, McBride, Wylie, Stonier, Goodman, Sawyer, Bergquist, Gregerson, Sullivan, Lytton, Tharinger, Chapman, Lovick, Senn, Hansen, Sells, Frame, Fitzgibbon, Riccelli, Macri, Jinkins, Dolan, Stanford, Orwall, Ortiz-Self, Farrell, Slatter, Tarleton, Clibborn, Fey, Kilduff, Reeves, Pettigrew, Appleton, Robinson, Blake, Ormsby, Pellicciotti, Kloba, Hudgins, and Santos)

READ FIRST TIME 02/17/17.

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

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

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

34 (iii) Skill mix;

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

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

38 (vi) The architecture and geography of the patient care unit,  
39 including but not limited to placement of patient rooms, treatment

1 areas, nursing stations, medication preparation areas, and equipment;  
2 ((and))

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

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

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

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

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

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

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

24 (6) The committee will produce the hospital's annual nurse  
25 staffing plan. If this staffing plan is not adopted by the hospital,  
26 the chief executive officer shall provide a written explanation of  
27 the reasons why the plan was not adopted to the committee and the  
28 chief executive officer must either identify those elements of the  
29 proposed plan being changed or prepare an alternate annual staffing  
30 plan that will be adopted by the hospital. Beginning January 1, 2019,  
31 each hospital shall submit its staffing plan to the department and  
32 thereafter on an annual basis and at any time in between that the  
33 plan is updated.

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

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

1       (b) Shift-to-shift adjustments in staffing levels required by the  
2 plan may be made by the appropriate hospital personnel overseeing  
3 patient care operations only after consultation with one or more  
4 impacted registered nurses providing direct patient care on the  
5 patient care unit or units utilizing procedures specified by the  
6 staffing committee. If a nurse on a patient care unit objects to a  
7 shift-to-shift adjustment, the registered nurse may submit the  
8 complaint to the staffing committee.

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

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

19       ~~((+8))~~ (9) A hospital may not retaliate against or engage in any  
20 form of intimidation of:

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

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

26       ~~((+9))~~ (10) This section is not intended to create unreasonable  
27 burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4.  
28 Critical access hospitals may develop flexible approaches to  
29 accomplish the requirements of this section that may include but are  
30 not limited to having nurse staffing committees work by telephone or  
31 ~~((electronic mail))~~ email.

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

34       (1)(a) The department shall investigate a complaint for violation  
35 of RCW 70.41.420 following receipt of a complaint with documented  
36 evidence of failure to:

37       (i) Form or establish a staffing committee;

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

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

3 (iv) Follow the nursing personnel assignments as adopted by the  
4 hospital as evidenced by the aggregate data of concerns for either  
5 shift-to-shift adjustment or reports of variations not in accordance  
6 with the adopted staffing plan for the hospital. This must be  
7 evidenced by a minimum of a sixty-day period of aggregate complaint  
8 data filed under RCW 70.41.420(7) (a) and (b) and where the staffing  
9 committee has not determined the complaints resolved; except in the  
10 event of unforeseeable emergency circumstances or where the hospital,  
11 after consultation with the staffing committee, documents it has made  
12 reasonable efforts to obtain staffing to meet required assignments  
13 but has been unable to do so.

14 (b) The department shall investigate the complaint and, if the  
15 department determines that there has been a violation, require the  
16 hospital to submit a corrective plan of action within forty-five days  
17 of the presentation of findings from the department to the hospital.

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

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

29 (4) For purposes of this section, "unforeseeable emergency  
30 circumstance" means:

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

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

33 (c) Any unforeseen disaster or other catastrophic event that  
34 substantially affects or increases the need for health care services;  
35 or

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

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

1        NEW SECTION.    **Sec. 4.**    This act may be known and cited as the  
2    Washington state patient safety act.

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