**1714-S AMH CODY H2306.1 - NOT FOR FLOOR USE**

**SHB 1714** - H AMD **280**

By Representative Cody

**ADOPTED 03/07/2017**

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Skill mix;

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

(v) The need for specialized or intensive equipment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Form or establish a staffing committee;

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

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

(iv) Follow the nursing personnel assignments as adopted by the hospital as evidenced by the aggregate data of concerns for either shift-to-shift adjustment or reports of variations not in accordance with the adopted staffing plan for the hospital. This must be evidenced by a minimum of a sixty-day period of aggregate complaint data filed under RCW 70.41.420(7) (a) and (b) and where the staffing committee has not determined the complaints resolved; except in the event of unforeseeable 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.

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

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

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

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

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

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

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

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

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

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

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.