

SENATE BILL REPORT

ESHB 1714

As Passed Senate - Amended, April 19, 2017

Title: An act relating to nursing staffing practices at hospitals.

Brief Description: Concerning nursing staffing practices at hospitals.

Sponsors: House Committee on 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, Jenkins, Dolan, Stanford, Orwall, Ortiz-Self, Farrell, Slatter, Tarleton, Clibborn, Fey, Kilduff, Reeves, Pettigrew, Appleton, Robinson, Blake, Ormsby, Pellicciotti, Kloba, Hudgins and Santos).

Brief History: Passed House: 3/07/17, 61-36.

Committee Activity: Health Care: 3/23/17, 3/23/17 [DP-WM, w/oRec].

Ways & Means: 3/31/17, 4/04/17 [DPA, w/oRec].

Floor Activity:

Passed Senate - Amended: 4/11/17, 42-7; 4/19/17, 44-5.

Brief Summary of Bill (As Amended by Senate)

- Requires all hospitals (1) to implement nurse staffing plans beginning January 1, 2019, and (2) to submit the staffing plan to the Department of Health (DOH).
- Requires the DOH to investigate complaints related to nurse staffing committees or nurse staffing plans.

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Rivers, Chair; Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Bailey, Conway, Fain, Keiser, Miloscia, Mullet, O'Ban and Walsh.

Minority Report: That it be referred without recommendation.

Signed by Senator Becker, Vice Chair.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Warnick and Zeiger.

Minority Report: That it be referred without recommendation.

Signed by Senators Padden and Schoesler.

Staff: James Kettel (786-7459)

Background: Hospitals must establish nurse staffing committees to develop and oversee an annual patient care unit and shift-based nurse staffing plan (nurse staffing plan); conduct a semiannual review of the nurse staffing plan; and review, assess, and respond to staffing concerns. A nurse staffing plan must consider such factors as:

- patient census, including total patients by unit and shift;
- level of intensity of patients and the nature of the care to be delivered on each shift;
- level of experience of nurses providing care;
- the need for specialized or intensive equipment;
- the physical design of the patient care unit; and
- staffing guidelines adopted by national nursing associations, specialty associations, and other health professional associations.

If the chief executive officer of the hospital does not approve the nurse staffing committee's plan, the chief executive officer must provide a written explanation to the committee. The hospital may not retaliate against employees performing duties in connection with the nurse staffing committee or an individual who notifies the nurse staffing committee or the hospital administration about concerns on nurse staffing.

Summary of Amended Bill: Establishes the Washington State Patient Safety Act (Act).

The duties of a nurse staffing committee are expanded to include the review, assessment, and response to staffing variations. The factors that must be considered in developing a nurse staffing plan are expanded to include:

- the availability of other personnel supporting nursing services;
- 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; and
- hospital finances and resources.

If a hospital does not adopt a nurse staffing committee's staffing plan, the chief executive officer of the hospital must either identify the elements of the plan being changed or prepare an alternative plan that must be adopted by the hospital. Beginning January 1, 2019, a

hospital must implement its nurse staffing plan and assign nursing personnel to patient care units according to the plan. The hospital must submit its adopted nurse staffing plans to the Department of Health (DOH) annually and whenever the plan is updated.

A nurse may report to the staffing committee any variations where the nurse personnel assignment in a patient care unit is not in accord with the adopted staffing plan and may make a complaint to the committee based on the variations. Shift-to-shift adjustments in staffing levels required by the plan may be made by the appropriate hospital personnel overseeing patient care operations. If a nurse on a patient care unit objects to a shift-to-shift adjustment, the registered nurse may submit the complaint to the committee. The committee must develop a process to examine and respond to these data, including the ability to determine if a specific complaint is resolved or dismissing a complaint based on unsubstantiated data.

The DOH must investigate a complaint for a violation of nurse staffing committee or nurse staffing plan requirements if the complaint has documented evidence of failure to:

- form or establish a staffing committee;
- conduct a semi-annual review of a nurse staffing plan;
- submit a nurse staffing plan on an annual basis or when updated; or
- follow the nurse personnel assignments or shift-to-shift adjustments.

Complaints relating to nurse personnel assignments or shift-to-shift adjustments may only be investigated by the DOH after determining that the submitted evidence indicates a continuing pattern of unresolved violations. This submitted evidence must include the aggregate data contained in the complaints submitted to the nurse staffing committee that indicate a continuing pattern of unresolved violations for a minimum 60-day continuous period before the complaint is submitted to the DOH. DOH may not investigate a complaint relating to nurse personnel assignments or shift-to-shift adjustments in the event of unforeseeable emergency circumstances or where the hospital, after consultation with the nurse staffing committee, documents it has made reasonable efforts to obtain staffing to meet required assignments, but has been unable to do so.

The DOH, however, may not investigate a complaint:

- in the event of unforeseeable emergency circumstances; or
- if a hospital has made reasonable efforts to obtain staffing to meet required assignments.

If the DOH finds there has been a violation, the hospital must submit a corrective plan of action to the DOH of the presentation of findings to the hospital. Failure to submit or to follow a corrective plan of action may result in fines of \$100 per day for all violations asserted against the hospital at any time until the hospital submits or begins to follow a corrective plan of action or takes other action agreed to by the DOH. The DOH must maintain for public inspection records of any civil penalties, administrative actions, or license suspensions or revocations imposed on hospitals for these purposes.

The DOH must submit a report, developed with stakeholders assistance, to the legislature on December 31, 2020. This must include the number of complaints submitted to the DOH, the disposition of these complaints, the number of investigations conducted, the associated costs

for complaint investigations, and recommendations for any needed statutory changes. The DOH may also project any impact on hospital licensing fees over the next four years. Prohibits fees being increased to administer the Act before July 1, 2021.

The Act expires June 1, 2023.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Health Care):

PRO: This allows for increased transparency and for nurses and administrative staff to cooperate in developing the nurse staffing plans. This allows for better participation by nurses which leads to better patient care. It will help move towards the goal of increased safety of patient care with quality outcomes. This legislation has been developed with the input of stakeholders. DOH currently has limited authority to investigate issues relating to nurse staffing. This will provide them with more authority. We are still working on language to address the enforcement part of the bill in section 3.

Persons Testifying (Health Care): PRO: Jane Hopkins, SEIU Healthcare 1199NW, Vice President, RN; Justin Gill, Washington State Nurses Association; Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Health Care): No one.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.*

PRO: This is a reasonable compromise that requires hospitals to adopt a staffing plan. This will improve patient safety. We question the estimate in the fiscal note that this will result in 90 complaints per year; this is not a reasonable amount. This enhances and improves staffing committees. We believe this is appropriate and is not a one size fits all approach. DOH investigations only occur if there are 60 days of unaddressed complaints.

Persons Testifying (Ways & Means): PRO: Melissa Johnson, Washington State Nurses Association; Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.