HOUSE BILL REPORT
ESHB 1809

As Passed House:
March 13, 2007

Title: An act relating to the Washington state patient safety act.

Brief Description: Creating the Washington state patient safety act.

Sponsors: By House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Campbell, Green, Kenney, Cody, Darneille, Hunt, Conway, Williams, Simpson, Moeller, Santos and Wood).

Brief History:
Committee Activity:
Health Care & Wellness: 2/5/07, 2/22/07 [DPS];
Appropriations: 3/3/07 [DPS(HCW)].
Floor Activity:
Passed House: 3/13/07, 70-25.

Brief Summary of Engrossed Substitute Bill

- Requires acute care and psychiatric hospitals, and the state hospitals, to develop and implement nurse staffing plans for patient care units.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Morrell, Vice Chair; Barlow, Campbell, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

Minority Report: Do not pass. Signed by 3 members: Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member and Condotta.

Staff: Chris Cordes (786-7103).

HOUSE COMMITTEE ON APPROPRIATIONS

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.

Majority Report: The substitute bill by Committee on Health Care & Wellness be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Seaquist and P. Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Hinkle, Kretz, McDonald, Priest, Schual-Berke and Walsh.

Staff: Bernard Dean (786-7130).

Background:

Acute care hospitals are licensed and regulated by the Department of Health (DOH). These hospitals provide continuous accommodations, facilities, and services to patients requiring observation, diagnosis, or care over a period of at least 24 hours. They serve patients who may require surgery and interventional services, obstetrical and nursery services, emergency care units or services, critical care units or services, cardiology services, pediatric care services, rehabilitation units, oncology services, and laboratory services.

Among other things, the DOH rules require acute care hospitals to ensure that qualified and competent staff are available to operate each department. In making its staffing decisions, a hospital is not permitted to require overtime work for licensed practical nurses and registered nurses that work for an hourly wage, except in limited circumstances. One of these exceptions applies if the hospital documents that it made reasonable efforts to obtain staffing. However, a hospital has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages.

Private psychiatric hospitals, which are licensed under a separate statute, are places that care for the mentally ill, mentally incompetent persons, or chemically dependent persons. These hospitals are also subject to the nurse mandatory overtime work restrictions.

State hospitals, which are Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center, are operated and maintained by the state for the care of the mentally ill. State hospitals are not licensed by the DOH and are not subject to the nurse mandatory overtime work restrictions.

Under the health care liability reform legislation enacted in 2006, acute care hospitals, psychiatric hospitals, and other specified medical facilities are required to report to the DOH certain adverse events and incidents occurring in the facility. These adverse events are those listed by the National Quality Forum in 2002 and, among other events, include patient deaths under specific conditions, various surgical errors, and sexual assault of patients.

Summary of Engrossed Substitute Bill:

Acute care hospitals, psychiatric hospitals, and the state hospitals are required to implement nurse staffing plans that are developed by the hospital's staffing committee, considering recommendations on patient assignment standards published by the DOH.

Recommendations on Staffing Standards

By June 1, 2008, the Central Nursing Resource Center (Center) must forward to the DOH recommendations on patient assignment standards and other issues related to developing and implementing hospital staffing plans. The recommendations must be evidence-based and must be developed by a task force convened by the Center that includes representatives of hospital organizations, including rural hospitals. In making its recommendations the task force must consider current research and authoritative reports and guidelines, legislation considered or adopted in other states, the need presented by patients in various patient care units, and the availability of support staff. The task force's recommendations must be posted on the DOH's website for a 30-day comment period.

By July 15, 2008, the DOH must publish final recommendations on patient assignment standards, to be posted on its website, and provide the recommendations to the hospitals.

The Center will convene a task force to review and update the recommendations biennially.

Staffing Plans

By January 1, 2008, hospitals must establish a staffing committee to develop staffing plans. At least half of the members must be registered nurses providing direct patient care.

By January 1, 2009, hospitals must implement a staffing plan that: (1) sets the minimum number and skill mix of nursing personnel required on shifts in each patient care unit, considering the final patient assignment standards recommendations, and, if it sets a standard lower than the recommendations, includes a written explanation; (2) considers various additional criteria, including census, patient intensity on the shift, and the architecture of the patient care unit; (3) includes limits on the use of agency/traveling nurses; (4) is consistent with the scope of practices of nursing personnel; (5) includes adequate coverage for leave and work breaks; and (6) has at least a semiannual review process. The plans must be updated annually.

The staffing plan and staffing levels must be readily available to patients and visitors. Plan adjustments may be made only if a registered nurse providing direct patient care makes the assessment.

The hospitals must have a process for staff to report staffing concerns, and the DOH must review those reports along with the staffing plan every 18 months in conjunction with hospital licensing surveys.

Reports on Staffing Plans

The DOH, in collaboration with the Washington State Quality Forum (WSQF), must develop standards for comparing hospital staffing plans and post ratings and other information about staffing on the WSQF's website.

Hospitals must collect specified information regarding nurse staffing and submit it to the DOH twice yearly. Information required in the reports includes the skill mix of nursing staff, information about death among surgical inpatients, prevalence of urinary tract infections and hospital-acquired infections, incidence of patient falls, and other patient care measures. The DOH must post this information along with the ratings of staffing plans.

When a medical facility reports an adverse health event, the report must include information on the number of patients and nursing personnel in the area and other information about staffing at the time of the event being reported. Hospitals must consider staffing issues as a factor when reporting adverse health events and incidents.

Compliants

The DOH must investigate complaints by hospital staff of violations related to the required staffing plans and attempt to resolve violations. If not resolved, the DOH must make findings and post them along with ratings of staffing plans. The DOH must maintain a toll-free phone number for patients to report violations and must disclose the reports to hospital and staffing committee.

Hospitals may not retaliate against an employee, patient, or other person for certain activities related to implementing hospital staffing plans.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 26, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: (Health Care & Wellness)

(In support) This bill is not a ratio bill, but is a retention bill to address the need to keep nursing staff in the profession. The number one reason people leave the profession is because of high levels of patient assignments. Nursing has changed over the last few decades and has become increasingly complex. The bill takes an evidence-based approach to determine what minimum staffing standards should be recommended. The bill allows flexibility, since one size does not fit all. Rather, the staffing must be specific to each patient care unit. Nurses must be part of the decisions on staffing levels. New research shows a correlation between patient safety and nurse staffing levels. There is a 7 percent greater chance of a patient dying if the nurse has more than four patients assigned. If staffing is too high, nurses have to choose between patients in deciding who gets care. In California, where mandatory staffing levels are in place, the nursing shortage has eased. Sharing the patient outcomes publicly is critical to good consumer decision-making.

(Neutral) There is a recognition that appropriate staffing levels are essential to hospitals, and there are various standards available for study. The DOH currently uses a series of minimum standards for certain services and looks to performance based outcomes. Medicaid requirements take a similar approach. There is a rules update in process, with several workshops held on the topic.

(Opposed) The bill would set a maximum number of patients for a nurse even if there was a need to delegate responsibilities to someone else. Proscriptive approaches do not work in this unique environment. There is no national data or proven model. The California law has had bad results. A recent study on nurse sensitive indicators shows that effectiveness is more dependent on the skill mix of the staff. Under state law, hospitals must ensure that qualified staff are present. Patients cannot be admitted without adequate staffing. The DOH follows up on any complaints about patient safety. The DOH is updating its rules now, and this bill duplicates some of the union proposals that have been made in that process.

Staff Summary of Public Testimony: (Appropriations)

(In support) House Bill 1809 takes an important step forward in reducing nursing shortages and improving quality of patient care. Research shows one of the most important measures a hospital can take in improving patient safety is to improve nurse staffing. Research reveals that post-surgical patients have a 7 percent chance of dying from complications for each patient that a nurse has over four. It is not uncommon in the hospitals of Washington for a nurse to have seven or more patients. Furthermore, 20 percent of medical errors are due to insufficient medical staffing. Errors can be reduced, patient safety improved and staffing issues addressed through implementing House Bill 1809. Nurses in the state are over-worked and the nursing shortage is evident throughout the state.

When nurses are unable to provide the necessary care to their patients, it extends from a patient safety issue to a staff turn-over issue as nurses leave the industry. It is important to address staffing if the state wants to improve patient care. This bill protects patients and provides nurses a voice in the medical industry when discussing patient care and enhancing nursing retention. The bill also provides transparency to consumers by requiring reporting of already gathered data to the public so they can make the best educated decisions regarding health care. By establishing clear recommendations for what constitutes safe staffing, and requiring reports about staffing from hospitals, patients will know how hospitals compare to one another.

(Opposed) The Washington State Hospital Association opposes this bill in its current form. Hospitals do have staffing plans and they are surveyed by the Department of Health (DOH). Also, any complaints by patients are investigated by the DOH. The DOH is reviewing hospital licensing regulations and staffing plans are being reviewed for rule-making. The fiscal note that is available is on the original bill that was before the Health Care Committee. The DOH doesn't anticipate that the fiscal note on the substitute bill will be dramatically different. However, the fiscal note says that by 2008, it's a $39.31 per bed increase. That is a 50 percent increase in hospital licensing bed fees. I question the direction of the bill if it costs that much to implement. Last year there was an agreement to create a task force, but the bill

wasn't allowed because of tort reform. Section 3 has some really good language on root cause analysis. For incident reports, there is an opportunity for staffing to be fed into quality improvement committees.

Persons Testifying: (Health Care & Wellness) (In support) Representative Morrell, prime sponsor; Chris Barton and Kathy Sweeney, Service Employees International Union; Kim Armstrong, Anne Tan Piazza, and Susan Jacobson, Washington State Nurses Association; and Dan Halsey, United Food and Commercial Workers International Union.

(Neutral) Brian Peyton, Department of Health.

(Opposed) Kristin Peterson and Lisa Thatcher, Washington State Hospital Association.

Persons Testifying: (Appropriations) (In support) Konnie Campagna, Kim Armstrong, Ann Tan Piazza and Dawn Cutler, Washington State Nurses Association.

(Opposed) Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: (Health Care & Wellness) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.