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SENATE BILL 5672

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State of Washington

64th Legislature

2015 Regular Session

By Senators Conway, Keiser, Hasegawa, Kohl-Welles, Fraser, Benton,  
and Darneille

Read first time 01/28/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to nursing staffing practices at hospitals;  
2 amending RCW 70.41.420; adding new sections 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 the critical role that registered  
7 nurses play in improving patient safety and quality of care;

8 (2) Greater numbers of registered nurses available to care for  
9 hospitalized patients are key to reducing errors, complications, and  
10 adverse patient care events;

11 (3) Higher nurse staffing levels result in improved staff safety  
12 and satisfaction and reduced incidences of workplace injuries;

13 (4) 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; and

16 (5) Assuring sufficient nurse staffing to meet patient care needs  
17 is an urgent public policy priority in order to protect patients,  
18 support greater retention of registered nurses and safer working  
19 conditions, promote evidence-based nurse staffing, and increase  
20 transparency of health care data and decision making.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 70.41  
2    RCW to read as follows:

3        (1) By June 30, 2016, the department, with stakeholder input,  
4    shall:

5        (a) Adopt patient assignment limits; and

6        (b) Recommend quality indicators in addition to those specified  
7    in section 4 of this act.

8        (2) Patient assignment limits apply:

9        (a) To individual registered nurse assignments, and may not be  
10    construed as establishing average assignments for a hospital or  
11    patient care unit; and

12        (b) At all times that a registered nurse is on duty, including  
13    times when other nurses are away from the unit, on a break, or  
14    otherwise not providing patient care.

15        (3) The established patient assignment limits apply to all  
16    hospitals in the state. These patient assignment limits represent the  
17    maximum number of patients for which any registered nurse may be  
18    assigned at any one time to provide care. This number includes  
19    patients for whose care the registered nurse is responsible, but for  
20    whom aspects of care have been delegated to other nursing personnel.  
21    The department may establish different limits for different types of  
22    patient care units or areas.

23        (4) Patient assignment limits serve as a minimum staffing  
24    standard. However, compliance with these patient assignment limits  
25    alone is not sufficient to demonstrate compliance with the  
26    requirements for development and implementation of staffing plans  
27    under RCW 70.41.420. Actual staffing levels on any hospital unit  
28    during any shift must be determined by the staffing plan developed by  
29    the hospital nurse staffing committee consistent with RCW 70.41.420.

30        (5) A registered nurse may not be assigned to a nursing unit or  
31    clinical area unless the nurse has first received orientation in that  
32    clinical area sufficient to provide competent care to patients in  
33    that area and has demonstrated current competence in providing care  
34    in that area.

35        (6) The written policies and procedures for orientation of  
36    nursing staff must require that all temporary personnel receive  
37    orientation and be subject to competency validation.

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

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

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

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

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

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

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

29 (iii) Skill mix;

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

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

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

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

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

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

6 (c) Review, assessment, and response to staffing concerns  
7 presented to the committee.

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

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

15 ~~((The committee will produce the hospital's annual nurse~~  
16 ~~staffing plan. If this staffing plan is not adopted by the hospital,~~  
17 ~~the chief executive officer shall provide a written explanation of~~  
18 ~~the reasons why to the committee.))~~ Beginning June 30, 2017, each  
19 hospital shall submit the staffing plan to the department on at least  
20 an annual basis.

21 (7) Beginning June 30, 2017, each hospital shall implement the  
22 staffing plan and assign nursing personnel to each patient care unit  
23 in accordance with the plan. Shift-to-shift adjustments in staffing  
24 levels required by the plan may be made only if based upon assessment  
25 by a registered nurse providing direct patient care on the patient  
26 care unit, utilizing procedures specified by the staffing committee.

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

33 ~~((+8))~~ (9) A hospital may not retaliate against or engage in any  
34 form of intimidation of:

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

37 (b) An employee, patient, or other individual who notifies the  
38 nurse staffing committee ~~((or))~~, the hospital administration, an  
39 agent of the collective bargaining, or the department of his or her  
40 concerns ~~((or))~~ regarding nurse staffing that (i) violates the nurse

1 staffing plan or patient assignment limits or (ii) the employee,  
2 patient, or other individual believes is otherwise insufficient or  
3 unsafe.

4 ~~((9))~~ (10) A hospital may not penalize any registered nurse for  
5 refusing to accept an assignment that violates the hospital staffing  
6 plan described in this section, or the restrictions described in  
7 section 2(5) of this act, as long as the registered nurse first  
8 informs the hospital in writing that he or she has concluded that, in  
9 his or her professional judgment and nursing practice licensure  
10 standards, accepting the assignment would place one or more patients  
11 at immediate risk of serious harm or injury.

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

18 NEW SECTION. Sec. 4. A new section is added to chapter 70.41  
19 RCW to read as follows:

20 (1) Hospitals shall regularly collect information regarding nurse  
21 staffing and submit it to the department semiannually. This  
22 information must include:

23 (a) Nursing staff skill mix, including registered nurses,  
24 licensed practical nurses, and unlicensed assistive personnel;

25 (b) Nursing hours per patient day;

26 (c) Nurse voluntary turnover rate; and

27 (d) Nurses supplied by temporary staffing agencies including  
28 traveling nurses.

29 (2) In adopting rules under this section, the department shall  
30 determine effective means for making the information identified in  
31 subsection (1) of this section readily available to the public,  
32 including posting it in public areas of the hospital and making it  
33 available through the internet.

34 NEW SECTION. Sec. 5. A new section is added to chapter 70.41  
35 RCW to read as follows:

36 (1)(a) Upon receipt of a complaint for a violation of section 2  
37 of this act, RCW 70.41.420, or section 4 of this act, if the hospital  
38 has not had a final finding of a violation of those provisions within

1 the previous twenty-four months, the department shall investigate the  
2 complaint and, if the department determines that there has been a  
3 violation of those sections, require the hospital to submit a  
4 corrective plan of action.

5 (b) Upon receipt of a complaint for a violation of section 2 of  
6 this act, RCW 70.41.420, or section 4 of this act, if the hospital  
7 has had a final finding of a violation of those provisions within the  
8 previous twenty-four months, the department shall investigate the  
9 complaint and conduct an audit of the hospital's compliance with  
10 those sections.

11 (2) Where a hospital is found to be out of compliance with the  
12 requirements of sections 2 and 4 of this act and RCW 70.41.420, the  
13 department shall at a minimum require the hospital to submit a  
14 corrective plan of action. In the event that a hospital fails to  
15 submit or submits but fails to follow such a corrective plan of  
16 action, the department may impose a civil penalty of ten thousand  
17 dollars.

18 (3) In addition, in the event that a hospital is found to have  
19 committed a knowing violation or repeated violations of the  
20 requirements of sections 2 and 4 through 6 of this act and RCW  
21 70.41.420, the department may take either or both of the following  
22 actions:

23 (a) Suspend or revoke the license of a hospital; or

24 (b) Impose civil penalties as follows:

25 (i) Two thousand five hundred dollars for a first knowing  
26 violation of the requirements of sections 2 and 4 through 6 of this  
27 act and RCW 70.41.420;

28 (ii) Five thousand dollars for the second violation of the  
29 requirements of sections 2 and 4 through 6 of this act and RCW  
30 70.41.420 within a six-month period; and

31 (iii) Ten thousand dollars for the third and each subsequent  
32 violation of the requirements of sections 2 and 4 through 6 of this  
33 act and RCW 70.41.420 within a six-month period.

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

37 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.41  
38 RCW to read as follows:

1       The department shall adopt rules as necessary to implement  
2 sections 2, 4, and 5 of this act and RCW 70.41.420.

3       NEW SECTION.   **Sec. 7.**   This act may be known and cited as the  
4 Washington state patient safety act.

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