**1714-S.E AMS WM S2490.1 - NOT FOR FLOOR USE**

**ESHB 1714** - S COMM AMD

By Committee on Ways & Means

**NOT ADOPTED 04/11/2017**

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 registered 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. The chief executive officer must then either: (a) Identify those elements of the proposed plan being changed prior to adoption of the plan by the hospital or (b) prepare an alternate annual staffing plan that must 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 registered 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. If a registered 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 submitted under this section 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)(A) Follow the nursing personnel assignments in a patient care unit in violation of RCW 70.41.420(7)(a) or shift-to-shift adjustments in staffing levels in violation of RCW 70.41.420(7)(b).

(B) Prior to investigating a complaint under this subsection (1)(a)(iv), the department shall examine any complaints that were submitted to the hospital's nurse staffing committee under RCW 70.41.420(7) (a) or (b) excluding complaints determined by the nurse staffing committee to be resolved or dismissed. The department may only investigate a complaint under this subsection (1)(a)(iv) after making a preliminary finding that the aggregate data contained in the complaints submitted to the committee in a minimum sixty-day continuous period leading up to the receipt of the complaint by the department indicate a continuing pattern of unresolved violations of RCW 70.41.420(7) (a) or (b).

(C) The department may not investigate a complaint under this subsection (1)(a)(iv) in the event of unforeseeable emergency circumstances or if 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.

(b) After an investigation conducted under (a) of this subsection, if the department determines that there has been a violation, the department shall 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 hospital 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 a hospital is diverting patients to another hospital or hospitals for treatment or the hospital is receiving patients from another hospital or hospitals.

(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."

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On page 1, line of the title, after "hospitals;" strike the remainder of the title and insert "amending RCW 70.41.420; adding a new section to chapter 70.41 RCW; creating new sections; and prescribing penalties."

EFFECT: (1) Removes the requirement that hospital personnel overseeing patient care operations consult with registered nurses before making shift-to-shift adjustments in staffing levels.

(2) Prohibits the Department of Health (DOH) from investigating a complaint in the event of unforeseeable emergency circumstances, or if a hospital has made reasonable efforts to obtain staffing to meet required assignments.

(3) Allows DOH to investigate complaints relating to staffing assignments or shift-to-shift adjustments in staffing levels only if the data contained in the complaints indicate a continuing pattern of unresolved violations of these policies.