

RCW 70.41.425 Nurse staffing—Department investigations.

(Effective until July 1, 2024.) (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) The department may only investigate a complaint under this subsection (1)(a)(iv) after making an assessment that the submitted evidence indicates a continuing pattern of unresolved violations of RCW 70.41.420(7)(a) or (b), that were submitted to the nurse staffing committee excluding complaints determined by the nurse staffing committee to be resolved or dismissed. The submitted evidence must include the aggregate data contained in the complaints submitted to the hospital's nurse staffing committee that indicate a continuing pattern of unresolved violations for a minimum sixty-day continuous period leading up to receipt of the complaint by the department.

(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 who are 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.

(6) The department shall submit a report to the legislature on December 31, 2020. This report shall include the number of complaints submitted to the department under this section, the disposition of these complaints, the number of investigations conducted, the associated costs for complaint investigations, and recommendations for any needed statutory changes. The department shall also project, based on experience, the impact, if any, on hospital licensing fees over the next four years. Prior to the submission of the report, the secretary shall convene a stakeholder group consisting of the Washington state hospital association, the Washington state nurses association, service employees international union healthcare 1199NW, and united food and commercial workers 21. The stakeholder group shall review the report prior to its submission to review findings and jointly develop any legislative recommendations to be included in the report.

(7) No fees shall be increased to implement chapter 249, Laws of 2017 prior to July 1, 2021. [2017 c 249 § 3.]

Findings—2017 c 249: "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." [2017 c 249 § 1.]

Expiration date—2017 c 249: "This act expires June 1, 2023." [2017 c 249 § 4.]

Short title—2017 c 249: "This act may be known and cited as the Washington state patient safety act." [2017 c 249 § 5.]

RCW 70.41.425 Hospital staffing—Department investigations.
(Effective July 1, 2024.) (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 hospital staffing committee;
- (ii) Conduct a semiannual review of a staffing plan;
- (iii) Submit a staffing plan on an annual basis and any updates;

or

(iv)(A) Follow the nursing staff assignments in a patient care unit in violation of RCW 70.41.420(7) (c) or (d).

(B) Based on their formal agreement required under RCW 70.41.428 and 49.12.485, the department and the department of labor and

industries shall investigate complaints under this subsection (1)(a)(iv). The departments may only investigate a complaint under this subsection (1)(a)(iv) for violations of RCW 70.41.420(7)(c) or (d), that were submitted to the hospital staffing committee and remain unresolved for 60 days after receipt by the hospital staffing committee, excluding complaints determined by the hospital staffing committee to be resolved or dismissed.

(b) The department and the department of labor and industries may investigate and take appropriate enforcement action without any complaint if either department discovers data in the course of an investigation or inspection suggesting any violation of RCW 70.41.420.

(c) After an investigation conducted under (a) of this subsection, if the department and the department of labor and industries, pursuant to their formal agreement under RCW 70.41.428 and 49.12.485, determine that there has been multiple unresolved violations of RCW 70.41.420(7)(c) and (d) of a similar nature within 30 days prior to the receipt of the complaint by the department, the department shall require the hospital to submit for their approval a corrective plan of action within 45 days of the presentation of findings from the department to the hospital.

(d) Hospitals will not be found in violation of RCW 70.41.420 if it has been determined, following an investigation, that:

(i) There were unforeseeable emergent circumstances and the process under RCW 70.41.420(7)(f) has been followed, if applicable;

(ii) The hospital, after consultation with the hospital staffing committee, documents that the hospital has made reasonable efforts to obtain and retain staffing to meet required personnel assignments but has been unable to do so; or

(iii) Per documentation provided by the hospital, an individual admission of a patient in need of critical care to sustain their life or prevent disability received from another hospital caused the staffing plan violation alleged in the complaint.

(2)(a) The department shall review each hospital staffing plan submitted by a hospital to ensure it is received by the appropriate deadline and is completed on the department-issued staffing plan form.

(b) The hospital must complete all applicable portions of the staffing plan form. The department may determine that a hospital has failed to timely submit its staffing plan if the staffing plan form is incomplete.

(3) Beginning January 1, 2027, the department shall review all reports submitted under RCW 70.41.420(7)(b)(i) to ensure:

(a) The forms are received by the appropriate deadline;

(b) The forms are completed on the department-issued form; and

(c) The checkbox under RCW 70.41.420(7)(b)(iii) has not been checked.

(4) Beginning January 1, 2027, the department, in consultation with the department of labor and industries, must require a hospital to submit for their approval a corrective plan of action within 45 calendar days of a report to the department under RCW 70.41.420(7)(b)(ii) of this section or after an investigation under RCW 70.41.420(7)(b)(iii) of this section finds that the hospital is not in compliance.

(5)(a) Pursuant to their formal agreement under RCW 70.41.428 and 49.12.485 the department and the department of labor and industries must review and approve a hospital's proposed corrective plan of action under subsection (1)(c) or (4) of this section. As necessary, the department will require the hospital to revise the plan for it to

adequately address issues identified by the department and the department of labor and industries prior to approving the plan.

(b) The department may review any corrective plan of action under subsection (1)(c) or (4) of this section that adversely impact provision of health care services or patient safety, and may require revisions to the corrective plan of action to ensure patient safety is maintained.

(c) A corrective plan of action may include, but is not limited to, the following elements:

(i) Exercising efforts to obtain additional staff;

(ii) Implementing actions to improve staffing plan variation or shift-to-shift adjustment planning;

(iii) Delaying the addition of new services or procedure areas;

(iv) Requiring minimum staffing standards;

(v) Reducing hospital beds or services; or

(vi) Closing the hospital emergency department to ambulance transport, except for patients in need of critical care to sustain their life or prevent disability.

(d) A corrective plan of action must be of a duration long enough to demonstrate the hospital's ability to sustain compliance with the requirements of this section.

(e) In the event that the hospital follows a corrective plan of action under this subsection but remains in compliance for less than 80 percent of the nurse staffing assignments in the month following completion of the corrective plan of action, the hospital is required to submit a revised corrective plan of action with new elements that are likely to produce a minimum of 80 percent compliance with the nurse staffing assignments in a month.

(6)(a) In the event that a hospital fails to submit a staffing plan, staffing committee charter, or a corrective plan of action by the relevant deadline, the department may take administrative action with penalties up to \$10,000 per 30 days of failure to comply.

(b)(i) In the event that a hospital submits but fails to follow a corrective plan of action required under subsection (1)(c) or (4) of this section, the department of labor and industries may impose a civil penalty of \$50,000 per 30 days. Civil penalties apply until the hospital begins to follow a corrective plan of action that has been approved by the department. Revenue from these fines must be deposited into the supplemental pension fund established under RCW 51.44.033.

(ii) If the department of labor and industries finds a violation after an investigation pursuant to subsection (1)(a)(iv)(B) of this section or assesses or imposes any penalty pursuant to this section, the employer may appeal the department's finding or assessment of penalties according to the procedures under RCW 49.12.145 through 49.12.149.

(7)(a) As resources allow, the department must make records of any civil penalties and administrative actions or license suspensions or revocations imposed on hospitals, or any notices of resolution under this section available to the public.

(b) The department must post hospital staffing plans, hospital staffing committee charters, and the semiannual compliance reports required under RCW 70.41.420 on its website.

(8) 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. [2023 c 114 § 4; 2017 c 249 § 3.]

Effective date—2023 c 114: See note following RCW 70.41.410.

Findings—2017 c 249: "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." [2017 c 249 § 1.]

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