SENATE, No. 1280

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
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District 37 (Bergen)

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SYNOPSIS
Establishes minimum registered professional nurse staffing standards for hospitals and ambulatory surgery facilities and certain DHS facilities.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 6/23/2017)
AN ACT concerning nurse staffing standards in inpatient health care facilities and certain State facilities and supplementing Titles 26 and 30 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that:
   a. Because of recent changes in the health care delivery system, patients in general and special hospitals and ambulatory surgery facilities in the State, and in State developmental centers and psychiatric hospitals, generally have higher acuity levels than in the past;
   b. Recent studies demonstrate the link between adequate registered professional nurse staffing and improved mortality rates and quality of care among patients in health care facilities;
   c. Inadequate nurse staffing can result in dangerous medical errors, patient infections, and increased injuries to patients and caregivers;
   d. Inadequate and poorly monitored nurse staffing practices jeopardize the delivery of health care services and adversely impact the health of patients;
   e. The establishment of staffing standards for registered professional nurses in hospitals, ambulatory surgery facilities, and State developmental centers and psychiatric hospitals should not be construed as justifying understaffing with respect to other critical health care workers; safe staffing practices recognize the importance of all health care workers in providing quality patient care because the availability of these other health care workers enables registered professional nurses to focus on the nursing care functions that only these nurses, by law, are permitted to perform; and
   f. Understaffing at hospitals, ambulatory surgery facilities, and State developmental centers and psychiatric hospitals has been demonstrated to be an underlying cause of the current nursing shortage, since higher patient assignments create higher levels of job dissatisfaction, burnout, and turnover rates among nurses.

2. a. In addition to staffing requirements provided by law or regulation on the effective date of this act, the Commissioner of Health shall adopt regulations that provide minimum direct care registered professional nurse-to-patient staffing ratios for all patient units in general and special hospitals and ambulatory surgical facilities in accordance with the requirements of this act. The regulations shall not decrease any nurse-to-patient staffing ratios in effect on the effective date of this act.
   b. The regulations adopted pursuant to this section shall, at a minimum, provide for the following nurse-to-patient ratios:
      (1) one registered professional nurse for every five patients on a
medical/surgical unit;

   (2) one registered professional nurse for every four patients in a
step down, telemetry, or intermediate care unit;

   (3) one registered professional nurse for every four patients in
an emergency department, one registered professional nurse for
every two patients in a critical care service of an emergency
department, and one registered professional nurse for every patient
in a trauma service of an emergency department;

   (4) one registered professional nurse for every five patients in a
behavioral health or psychiatric unit;

   (5) one registered professional nurse for every two patients in a
critical care, intensive care, neonatal, or burn unit;

   (6) one registered professional nurse for every patient under
anesthesia in an operating room, and one registered professional
nurse for every two post-anesthesia patients in a recovery room or
post-anesthesia care unit;

   (7) one registered professional nurse for every two patients in a
labor and delivery unit; one registered professional nurse for every
four patients, including infants, in a postpartum unit in which the
mother and infant share the same room; and one registered
professional nurse for every six patients in a mothers-only unit; and

   (8) one registered professional nurse for every four patients in a
pediatric or intermediate care nursery unit, and one registered
professional nurse for every six patients in a well-baby nursery.

c. As used in this section and section 3 of this act, "direct care
registered professional nurse" means a registered professional nurse
who is assigned to provide care for one or more patients in a
specific unit, service, or department and is directly responsible for
carrying out procedures, assessments, or other nursing protocols.

3. The Commissioner of Health shall require all general and
special hospitals and ambulatory surgical facilities to employ an
acuity and staffing system, approved by the commissioner, for the
purpose of increasing direct care registered professional nurse
staffing levels above the minimum levels established in section 2 of
this act, or otherwise provided by law or regulation, to ensure
adequate staffing of each unit, service, or department, as applicable.

   The acuity and staffing system shall meet the following
requirements:

a. The system shall be based on: patient classification or
acuity; professional nurse staffing standards adopted by nurse
specialty organizations; skill mix; and the staffing levels of other
health care personnel and the use of agency or temporary staff.

b. The system shall be established in the facility by the
department of nursing with a majority of the unit staff nurses’
approval, or with the approval of the bargaining agent for registered
professional nurses at the facility.

c. The system shall allow forecasting of staffing levels and
provide a method to adjust staff for each patient care unit based on
objective criteria, including, but not limited to:

1. Documented skills, training, and competency of staff to plan and provide nursing services in the nursing areas where they function;
2. A patient database incorporating objective factors such as the case mix index, specific or aggregate patient diagnostic classifications or acuity levels, patient profiles, critical pathways or care progression plans, length of stay, and discharge plans;
3. Operational factors, such as unit size, design, and capacity, the admission/discharge/transfer index, and support service availability;
4. Contingency plans to address critical departures from the staffing plan, including policies and procedures to regulate closure of available beds if staffing levels fall below specified levels; and
5. Policies and procedures for the reassignment of staff, including float and agency staff.

d. The system shall permit waiver of minimum staffing level requirements in the event of an unforeseen emergent circumstance which causes significant changes in the patient census for a regular shift. Waiver shall not be permitted unless the facility has made reasonable efforts to provide sufficient additional staff to meet the required minimum staffing levels, including seeking volunteers and making use of on-call staff, per-diem staff, agency staff, and float pools. As used in this subsection, “unforeseeable emergent circumstance” means an unpredictable or unavoidable occurrence requiring immediate action.

e. A hospital shall maintain a float pool of qualified registered professional nurses to accommodate changes in staffing needs.

f. A nurse who is assigned the duty of maintaining unit census for patients and staff or supervisory functions, or who spends a significant amount of time on non-nursing tasks, shall not be factored into the required staffing levels.

g. A registered professional nurse shall not be assigned to a unit, service, or department, or considered in the count of nursing staff in a unit, service, or department, unless that nurse has received prior orientation in the applicable clinical area and has demonstrated current competence in providing care in that unit, service, or department.

4. a. The Department of Health shall monitor and enforce the minimum staffing level requirements established by this act through periodic inspection and in response to any complaint filed pursuant to subsection b. of this section.

b. A registered professional nurse or other staff member who believes that the hospital or facility in which the nurse or staff member is employed is in violation of the staffing requirements or the staffing and acuity system required pursuant to this act, or a member of the public who believes that a hospital or facility is in violation of the staffing requirements required under this act, may
file a complaint with the Commissioner of Health. The complaint shall be filed in a form and manner determined by the commissioner. The commissioner shall conduct an investigation of the complaint to determine whether or not a hospital or facility is in violation and take such action as may be necessary to ensure compliance with the requirements of this act.

c. The Commissioner of Health may waive the minimum staffing level requirements established by this act for any hospital or facility that the commissioner determines is in financial distress. The commissioner may revoke a waiver granted pursuant to this subsection if the commissioner determines that the hospital or facility is no longer in financial distress.

5. The Commissioner of Health shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt regulations, within 90 days of the effective date of this act, as necessary to carry out the provisions of this act. The commissioner shall hold a public hearing on the proposed regulations within 30 days of their publication in the New Jersey Register.

6. The Commissioner of Human Services shall conduct a review of Department of Human Services regulations concerning registered professional nurse staffing standards in developmental centers and State psychiatric hospitals, and shall revise the regulations, as appropriate, to reflect safe staffing practices and assure adequate staffing at the facilities.

7. This act shall take effect on the first day of the 12th month after enactment, but the Commissioners of Health and Human Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

STATEMENT

This bill establishes staffing standards for registered professional nurses in State hospitals, ambulatory surgical facilities, developmental centers, and psychiatric hospitals.

Specifically, the bill provides that, in addition to existing staffing requirements provided by law or regulation, the Commissioner of Health is to adopt regulations that provide minimum direct care registered professional nurse-to-patient staffing ratios for all patient units in general and special hospitals and ambulatory surgical facilities, in accordance with the minimum staffing requirements that are established by the bill. As specified in the bill, minimum nurse-to-patient ratios will vary depending on the type of unit, and will range from one registered professional nurse for every five patients in a behavioral health or psychiatric or a medical/surgical
unit, to one registered professional nurse for every patient under anesthesia in an operating room. The regulations adopted by the Commissioner of Health are not to decrease any nurse-to-patient staffing ratios that are already in effect on the bill’s effective date.

The bill provides that the Commissioner of Health is to require all general and special hospitals and ambulatory surgical facilities to employ an acuity and staffing system for the purpose of increasing direct care registered professional nurse staffing levels above the minimum levels established in the bill, or otherwise provided by law or regulation, in order to ensure adequate staffing of each unit, service, or department. The acuity and staffing system will be based on: patient classification or acuity; professional nurse staffing standards adopted by nurse specialty organizations; skill mix; and the staffing levels of other health care personnel and the use of agency or temporary staff. The system is to be established in the facility by the facility’s department of nursing, with the approval of a majority of the unit staff nurses or their bargaining agent. The bill requires the acuity and staffing system to allow for the forecasting of staffing levels, and to provide a method to adjust staffing levels for each patient care unit based on objective criteria currently set forth at N.J.A.C.8:43G-17.1(a)3, including, but not limited to:

1. the documented skills, training, and competency of staff to plan and provide nursing services in the nursing areas where they function;
2. a patient database incorporating objective factors such as the case mix index, specific or aggregate patient diagnostic classifications or acuity levels, patient profiles, critical pathways or care progression plans, length of stay, and discharge plans;
3. operational factors, such as unit size, design, and capacity, the admission/discharge/transfer index, and support service availability;
4. contingency plans to address critical departures from the staffing plan, including policies and procedures to regulate the closure of available beds if staffing levels fall below specified levels; and
5. policies and procedures for the reassignment of staff, including float and agency staff.

The acuity and staffing system will additionally be required to permit waiver of minimum staffing level requirements in the event of an unforeseen emergent circumstance which causes significant changes in the patient census for a regular shift. Waiver will not be permitted unless the facility has made reasonable efforts to provide sufficient additional staff to meet the required minimum staffing levels, including seeking volunteers and making use of on-call staff, per-diem staff, agency staff, and float pools. The bill defines “unforeseeable emergent circumstance” to mean an unpredictable or unavoidable occurrence requiring immediate action.

The Commissioner of Health will also be permitted to waive the
minimum staffing level requirements for any hospital or facility that
the commissioner determines is in financial distress. A waiver may
be revoked upon a determination that the facility is no longer in
financial distress.

The bill requires the Department of Health to enforce minimum
staffing ratios by conducting periodic inspections and responding to
complaints. The bill provides a system, pursuant to which a
registered professional nurse, other staff member, or member of the
public, believing that a facility is in violation of the staffing
requirements or the staffing and acuity system, may file a complaint
with the Commissioner of Health. In responding to a complaint, the
commissioner will be required to conduct an investigation to
determine whether or not a hospital or facility is in violation, and to
take such other action as may be necessary to ensure compliance
with the requirements of the bill.

Finally, in addition to the above-described requirements
applicable to the Commissioner of Health, the bill requires the
Commissioner of Human Services to conduct a review of
Department of Human Services regulations concerning registered
professional nurse staffing standards in developmental centers and
State psychiatric hospitals, and to revise the regulations, as
appropriate, to reflect safe staffing practices and assure adequate
staffing at the facilities.