SENATE, No. 989

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
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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: 2/1/2019)
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
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), 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.