



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3871

Introduced 2/22/2021, by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

See Index

Creates the Safe Patient Limits Act. Provides the maximum number of patients that may be assigned to a registered nurse in specified situations. Provides that nothing shall preclude a facility from assigning fewer patients to a registered nurse than the limits provided in Act. Provides that nothing in the Act precludes the use of patient acuity systems consistent with the Nurse Staffing by Patient Acuity Act; however, the maximum patient assignments in the Act may not be exceeded, regardless of the use and application of any patient acuity system. Provides that the Department of Public Health shall adopt rules governing the implementation and operation of the Act. Provides that all facilities shall adopt written policies and procedures for training and orientation of nursing staff and that no registered nurse shall be assigned to a nursing unit or clinical area unless that nurse has, among other things, demonstrated competence in providing care in that area. Provides specified requirements for the Act's implementation by a facility. Establishes recordkeeping requirements. Provides that the written policies and procedures for the training and orientation of nursing staff shall require that all temporary personnel receive the same amount and type of training and orientation that is required for permanent staff. Provides specified nurse rights and protections. Provides that the Act's provisions are severable. Contains other provisions. Amends the Hospital Licensing Act. Provides that a hospital shall not mandate that a registered professional nurse delegate nursing interventions. Amends the Nurse Practice Act. Provides that the exercise of professional judgment by a direct care registered professional nurse in the performance of his or her scope of practice shall be provided in the exclusive interests of the patient.

LRB102 14828 CPF 20181 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Safe
5 Patient Limits Act.

6 Section 5. Definitions. In this Act:

7 "Couplet" means one mother and one baby.

8 "Critical trauma patient" means a patient who has an
9 injury to an anatomic area that (i) requires life-saving
10 interventions, or (ii) in conjunction with unstable vital
11 signs, poses an immediate threat to life or limb.

12 "Department" means the Department of Public Health.

13 "Direct care registered professional nurse" means a
14 registered professional nurse whose primary role is to provide
15 direct hands-on patient care.

16 "Facility" means a hospital licensed under the Hospital
17 Licensing Act or organized under the University of Illinois
18 Hospital Act, a private or State-owned and State-operated
19 general acute care hospital, an LTAC hospital as defined in
20 Section 10 of the Long Term Acute Care Hospital Quality
21 Improvement Transfer Program Act, an ambulatory surgical
22 treatment center as defined in Section 3 of the Ambulatory
23 Surgical Treatment Center Act, an acute psychiatric hospital,

1 an acute care specialty hospital, or an acute care unit within
2 a health care facility. "Facility" does not include: (1) the
3 Alton Mental Health Center, at Alton; (2) the Chicago-Read
4 Mental Health Center, at Chicago; (3) the Clyde L. Choate
5 Mental Health and Developmental Center, at Anna; (4) the Elgin
6 Mental Health Center, at Elgin; (5) the John J. Madden Mental
7 Health Center, at Chicago; (6) the Andrew McFarland Mental
8 Health Center, at Springfield; and (7) the Chester Mental
9 Health Center, at Chester.

10 "Health care workforce" means personnel employed by or
11 contracted to work at a facility that have an effect upon the
12 delivery of quality care to patients, including, but not
13 limited to, registered nurses, licensed practical nurses,
14 unlicensed assistive personnel, service, maintenance,
15 clerical, professional, and technical workers, and other
16 health care workers.

17 "Immediate postpartum patients" means those patients who
18 have given birth within the previous 2 hours.

19 "Nursing care" means care that falls within the scope of
20 practice as described in Section 55-30 or 60-35 of the Nurse
21 Practice Act or is otherwise encompassed within recognized
22 standards of nursing practice.

23 "Rapid response team" means a team of health care
24 providers that provide care to hospitalized patients with
25 early signs of deterioration to prevent respiratory or cardiac
26 arrest.

1 "Registered nurse" or "registered professional nurse"
2 means a person who is licensed as a registered professional
3 nurse under the Nurse Practice Act and practices nursing as
4 described in Section 60-35 of the Nurse Practice Act.

5 "Specialty care unit" means a unit which is organized,
6 operated, and maintained to provide care for a specific
7 medical condition or a specific patient population.

8 For the purposes of this Act, a patient is considered
9 assigned to a registered nurse if the registered nurse accepts
10 responsibility for the patient's nursing care.

11 Section 10. Maximum patient assignments for registered
12 nurses.

13 (a) The maximum number of patients assigned to a
14 registered nurse in a facility shall not exceed the limits
15 provided in this Section. However, nothing shall preclude a
16 facility from assigning fewer patients to a registered nurse
17 than the limits provided in this Section. The requirements of
18 this Section apply at all times during each shift within each
19 clinical unit and each patient care area.

20 The requirements of this Section do not apply to: (1) the
21 Alton Mental Health Center, at Alton; (2) the Chicago-Read
22 Mental Health Center, at Chicago; (3) the Clyde L. Choate
23 Mental Health and Developmental Center, at Anna; (4) the Elgin
24 Mental Health Center, at Elgin; (5) the John J. Madden Mental
25 Health Center, at Chicago; (6) the Andrew McFarland Mental

1 Health Center, at Springfield; and (7) the Chester Mental
2 Health Center, at Chester.

3 (b) In all units with critical care or intensive care
4 patients, including, but not limited to, coronary care, acute
5 respiratory, burn, or neonatal intensive care patients, the
6 maximum patient assignment of critical care patients to a
7 registered nurse is 2.

8 (c) In all units with step-down or intermediate care
9 patients, the maximum patient assignment of step-down or
10 intermediate care patients to a registered nurse is 3.

11 (d) In all units with postanesthesia care patients, the
12 maximum patient assignment of postanesthesia care patients
13 under the age of 18 to a registered nurse is one. The maximum
14 patient assignment of postanesthesia care patients 18 years of
15 age or older to a registered nurse is 2.

16 (e) In all units with operating room patients, the maximum
17 patient assignment of operating room patients to a registered
18 nurse is one, provided that a minimum of one additional person
19 serves as a scrub assistant for each patient.

20 (f) In the emergency department:

21 (1) In a unit providing basic emergency medical
22 services or comprehensive emergency medical services, the
23 maximum patient assignment at any time to a registered
24 nurse is 3.

25 (2) The maximum assignment of critical care emergency
26 patients to a registered nurse is 2. A patient in the

1 emergency department shall be considered a critical care
2 patient when the patient meets the criteria for admission
3 to a critical care service area within the hospital.

4 (3) The maximum assignment of critical trauma patients
5 in an emergency unit to a registered nurse is one.

6 (4) At least one direct care registered professional
7 nurse shall be assigned to triage patients. The direct
8 care registered professional nurse assigned to triage
9 patients shall be immediately available at all times to
10 triage patients when they arrive in the emergency
11 department. The direct care registered professional nurse
12 assigned to triage patients shall perform triage functions
13 only.

14 (g) In all units with maternal child care patients:

15 (1) The maximum patient assignment to a registered
16 nurse of antepartum patients requiring continuous fetal
17 monitoring is 2.

18 (2) The maximum patient assignment of other antepartum
19 patients to a registered nurse is 3.

20 (3) The maximum patient assignment of active labor
21 patients to a registered nurse is one.

22 (4) The maximum patient assignment during birth is one
23 registered nurse responsible for the mother and, for each
24 baby born, one registered nurse whose sole responsibility
25 is that baby.

26 (5) The maximum patient assignment of immediate

1 postpartum patients is one couplet, and in the case of
2 multiple births, one nurse for each additional baby.

3 (6) The maximum patient assignment of postpartum
4 patients to a registered nurse is 6 patients or 3
5 couplets.

6 (h) In all units with pediatric patients, the maximum
7 patient assignment of pediatric patients to a registered nurse
8 is 3.

9 (i) In all units with psychiatric patients, the maximum
10 patient assignment of psychiatric patients to a registered
11 nurse is 4.

12 (j) In all units with medical and surgical patients, the
13 maximum patient assignment of medical or surgical patients to
14 a registered nurse is 4.

15 (k) In all units with telemetry patients, the maximum
16 patient assignment of telemetry patients to a registered nurse
17 is 3.

18 (l) In all units with observational patients, the maximum
19 patient assignment of observational patients to a registered
20 nurse is 3.

21 (m) In all units with acute rehabilitation patients, the
22 maximum patient assignment of acute rehabilitation patients to
23 a registered nurse is 4.

24 (n) In all specialty care units, the maximum patient
25 assignment to a registered nurse is 4.

26 (o) In all units with conscious sedation patients, the

1 maximum patient assignment of conscious sedation patients to a
2 registered nurse is one.

3 (p) In any unit not otherwise listed in this Section, the
4 maximum patient assignment to a registered nurse is 4.

5 Section 15. Use of rapid response teams as first
6 responders prohibited. A rapid response team nurse shall not
7 be given direct care patient assignments while assigned as a
8 nurse responsible for responding to a rapid response team
9 request.

10 Section 20. Implementation by a facility.

11 (a) A facility shall implement the patient limits
12 established by Section 10 without diminishing the staffing
13 levels of the facility's health care workforce, as defined in
14 Section 5.

15 (b) There shall be no averaging of the number of patients
16 and the total number of registered nurses in each clinical
17 unit or patient care area in order to meet the limits
18 established under this Act.

19 (c) Only registered nurses providing direct patient care
20 shall count toward the patient limits under Section 10. Nurse
21 administrators, nurse supervisors, nurse managers, charge
22 nurses, case managers, ancillary staff, unlicensed personnel,
23 or any other hospital administrator or supervisor shall not
24 count toward the patient limits under Section 10.

1 (d) Identifying a clinical unit or patient care area by a
2 name or term other than those listed in this Act does not
3 affect a facility's requirement to staff the unit consistent
4 with the patient limits identified for the level of intensity
5 or type of care described in this Act.

6 (e) A registered nurse providing direct care to a patient
7 has the authority to determine if a change in the patient's
8 status places the patient in a different category requiring a
9 different patient limit under Section 10.

10 (f) A registered nurse may determine that additional
11 ancillary staff, such as licensed practical nurses, certified
12 nursing assistants, or other ancillary staff, excluding
13 medical assistants, are needed in order to provide safe care.

14 (g) A facility shall not employ video monitors or any form
15 of electronic visualization of a patient as a substitute for
16 the direct observation required for patient assessment by the
17 registered nurse or for patient protection. Video monitors or
18 any form of electronic visualization of a patient shall not
19 constitute compliance with the patient limits under Section
20 10.

21 Section 25. Changes in patient census.

22 (a) A facility shall plan for routine fluctuations in its
23 patient census, including, but not limited to, admissions,
24 discharges, and transfers.

25 (b) If a health care emergency causes a change in the

1 number of patients in a clinical care unit or patient care
2 area, a facility must be able to demonstrate that immediate
3 and diligent efforts were made to maintain required staffing
4 levels under this Act. For purposes of this subsection,
5 "health care emergency" means an emergency declared by the
6 federal government or the head of a State or local
7 governmental entity.

8 Section 30. Record of staff assignments. A facility shall
9 keep a record of the actual direct care registered
10 professional nurse, licensed practical nurse, certified
11 nursing assistant, and other ancillary staff assignments to
12 individual patients documented on a day-to-day, shift-by-shift
13 basis and shall keep copies of its staff assignments on file
14 for a period of 7 years.

15 Section 35. Implementation by the Department. The
16 Department shall adopt rules governing the implementation and
17 operation of this Act.

18 Section 40. Patient acuity systems. Nothing in this Act
19 precludes the use of patient acuity systems consistent with
20 Section 10.10 of the Hospital Licensing Act. However, the
21 maximum patient assignments in Section 10 shall not be
22 exceeded regardless of the use and application of any patient
23 acuity system.

1 Any method, software, or tool used to create or evaluate a
2 staffing plan adopted by a facility shall be established in
3 coordination with direct care registered professional nurses
4 and shall be transparent in all respects, including disclosure
5 of detailed documentation of the methodology used to determine
6 nurse staffing and identifying each factor, assumption, and
7 value used in applying the methodology. The Department shall
8 establish procedures to ensure that the documentation
9 submitted under this Section is available for public
10 inspection in its entirety.

11 Section 45. Training. All facilities shall adopt written
12 policies and procedures for the training and orientation of
13 nursing staff. No registered nurse shall be assigned to a
14 nursing unit or clinical area unless that nurse has first
15 received training and orientation in that clinical area that
16 is sufficient to provide competent care to patients in that
17 area and has demonstrated competence in providing care in that
18 area.

19 Section 50. Enforcement. A facility's failure to adhere to
20 the limits set by Section 10 shall be reported by the
21 Department to the Attorney General for enforcement, for which
22 the Attorney General may bring action in a court of competent
23 jurisdiction seeking injunctive relief and civil penalties. A
24 separate and distinct violation, for which the facility shall

1 be subject to a civil penalty of up to \$25,000, shall be deemed
2 to have been committed on each day during which any violation
3 continues after receipt of written notice of the violation
4 from the Department by the facility. The requirements of this
5 Act, and its enforcement, shall be suspended during a public
6 health emergency declared by the State or federal government.

7 Section 55. Nurse rights and protections.

8 (a) A registered professional nurse may object to or
9 refuse to participate in any activity, practice, assignment,
10 or task if:

11 (1) in good faith, the nurse reasonably believes it to
12 be a violation of the direct care registered professional
13 nurse-to-patient ratios established under this Act; or

14 (2) the nurse is not prepared by education, training,
15 or experience to fulfill the assignment without
16 compromising the safety of any patient or jeopardizing the
17 license of the nurse.

18 (b) A facility shall not retaliate, discriminate, or
19 otherwise take adverse action in any manner with respect to
20 any aspect of a nurse's employment, including discharge,
21 promotion, compensation, or terms, conditions, or privileges
22 of employment, based on the nurse's refusal to complete an
23 assignment under subsection (a).

24 (c) A facility shall not file a complaint against a
25 registered professional nurse with the Board of Nursing based

1 on the nurse's refusal to complete an assignment under
2 subsection (a).

3 (d) A facility shall not retaliate, discriminate, or
4 otherwise take adverse action in any manner against any person
5 or with respect to any aspect of a nurse's employment,
6 including discharge, promotion, compensation, or terms,
7 conditions, or privileges of employment, based on that nurse's
8 or that person's opposition to any hospital policy, practice,
9 or action that the nurse in good faith believes violates this
10 Act.

11 (e) A facility shall not retaliate, discriminate, or
12 otherwise take adverse action against any patient or employee
13 of the facility or any other individual on the basis that the
14 patient, employee, or individual, in good faith, individually
15 or in conjunction with another person or persons, has
16 presented a grievance or complaint, or has initiated or
17 cooperated in any investigation or proceeding of any
18 governmental entity, regulatory agency, or private
19 accreditation body, made a civil claim or demand, or filed an
20 action relating to the care, services, or conditions of the
21 facility or of any affiliated or related facilities.

22 (f) A facility shall not do either of the following:

23 (1) Interfere with, restrain, or deny the exercise of,
24 or attempt to deny the exercise of, a right conferred
25 under this Act.

26 (2) Coerce or intimidate any individual regarding the

1 exercise of, or an attempt to exercise, a right conferred
2 by this Act.

3 Section 60. Severability. The provisions of this Act are
4 severable, and if any clause, sentence, paragraph, subsection,
5 or Section of this law or any application thereof shall be
6 adjudged by any court of competent jurisdiction to be invalid,
7 such judgment shall not affect, impair, or invalidate the
8 remainder thereof but shall be confined in its operation to
9 the clause, sentence, paragraph, subsection, Section, or
10 application adjudged invalid and such clause, sentence,
11 paragraph, subsection, Section, or application shall be
12 reformed and construed so that it would be valid to the maximum
13 extent permitted.

14 Section 85. The Hospital Licensing Act is amended by
15 changing Section 10.10 as follows:

16 (210 ILCS 85/10.10)

17 Sec. 10.10. Nurse Staffing by Patient Acuity.

18 (a) Findings. The Legislature finds and declares all of
19 the following:

20 (1) The State of Illinois has a substantial interest
21 in promoting quality care and improving the delivery of
22 health care services.

23 (2) Evidence-based studies have shown that the basic

1 principles of staffing in the acute care setting should be
2 based on the complexity of patients' care needs aligned
3 with available nursing skills to promote quality patient
4 care consistent with professional nursing standards.

5 (3) Compliance with this Section promotes an
6 organizational climate that values registered nurses'
7 input in meeting the health care needs of hospital
8 patients.

9 (b) Definitions. As used in this Section:

10 "Acuity model" means an assessment tool selected and
11 implemented by a hospital, as recommended by a nursing care
12 committee, that assesses the complexity of patient care needs
13 requiring professional nursing care and skills and aligns
14 patient care needs and nursing skills consistent with
15 professional nursing standards.

16 "Department" means the Department of Public Health.

17 "Direct patient care" means care provided by a registered
18 professional nurse with direct responsibility to oversee or
19 carry out medical regimens or nursing care for one or more
20 patients.

21 "Nursing care committee" means an existing or newly
22 created hospital-wide committee or committees of nurses whose
23 functions, in part or in whole, contribute to the development,
24 recommendation, and review of the hospital's nurse staffing
25 plan established pursuant to subsection (d).

26 "Registered professional nurse" means a person licensed as

1 a Registered Nurse under the Nurse Practice Act.

2 "Written staffing plan for nursing care services" means a
3 written plan for guiding the assignment of patient care
4 nursing staff based on multiple nurse and patient
5 considerations that yield minimum staffing levels for
6 inpatient care units and the adopted acuity model aligning
7 patient care needs with nursing skills required for quality
8 patient care consistent with professional nursing standards.

9 (c) Written staffing plan.

10 (1) Every hospital shall implement a written
11 hospital-wide staffing plan, recommended by a nursing care
12 committee or committees, that provides for minimum direct
13 care professional registered nurse-to-patient staffing
14 needs for each inpatient care unit. The written
15 hospital-wide staffing plan shall include, but need not be
16 limited to, the following considerations:

17 (A) The complexity of complete care, assessment on
18 patient admission, volume of patient admissions,
19 discharges and transfers, evaluation of the progress
20 of a patient's problems, ongoing physical assessments,
21 planning for a patient's discharge, assessment after a
22 change in patient condition, and assessment of the
23 need for patient referrals.

24 (B) The complexity of clinical professional
25 nursing judgment needed to design and implement a
26 patient's nursing care plan, the need for specialized

1 equipment and technology, the skill mix of other
2 personnel providing or supporting direct patient care,
3 and involvement in quality improvement activities,
4 professional preparation, and experience.

5 (C) Patient acuity and the number of patients for
6 whom care is being provided.

7 (D) The ongoing assessments of a unit's patient
8 acuity levels and nursing staff needed shall be
9 routinely made by the unit nurse manager or his or her
10 designee.

11 (E) The identification of additional registered
12 nurses available for direct patient care when
13 patients' unexpected needs exceed the planned workload
14 for direct care staff.

15 (2) In order to provide staffing flexibility to meet
16 patient needs, every hospital shall identify an acuity
17 model for adjusting the staffing plan for each inpatient
18 care unit.

19 (3) The written staffing plan shall be posted in a
20 conspicuous and accessible location for both patients and
21 direct care staff, as required under the Hospital Report
22 Card Act. A copy of the written staffing plan shall be
23 provided to any member of the general public upon request.

24 (d) Nursing care committee.

25 (1) Every hospital shall have a nursing care
26 committee. A hospital shall appoint members of a committee

1 whereby at least 50% of the members are registered
2 professional nurses providing direct patient care.

3 (2) A nursing care committee's recommendations must be
4 given significant regard and weight in the hospital's
5 adoption and implementation of a written staffing plan.

6 (3) A nursing care committee or committees shall
7 recommend a written staffing plan for the hospital based
8 on the principles from the staffing components set forth
9 in subsection (c). In particular, a committee or
10 committees shall provide input and feedback on the
11 following:

12 (A) Selection, implementation, and evaluation of
13 minimum staffing levels for inpatient care units.

14 (B) Selection, implementation, and evaluation of
15 an acuity model to provide staffing flexibility that
16 aligns changing patient acuity with nursing skills
17 required.

18 (C) Selection, implementation, and evaluation of a
19 written staffing plan incorporating the items
20 described in subdivisions (c)(1) and (c)(2) of this
21 Section.

22 (D) Review the following: nurse-to-patient
23 staffing guidelines for all inpatient areas; and
24 current acuity tools and measures in use.

25 (4) A nursing care committee must address the items
26 described in subparagraphs (A) through (D) of paragraph

1 (3) semi-annually.

2 (e) Nothing in this Section 10.10 shall be construed to
3 limit, alter, or modify any of the terms, conditions, or
4 provisions of a collective bargaining agreement entered into
5 by the hospital.

6 (f) Delegation of nursing interventions by a registered
7 professional nurse must be in accordance with Section 50-75 of
8 the Nurse Practice Act.

9 (g) A hospital shall not mandate that a registered
10 professional nurse delegate a nursing intervention, including,
11 but not limited to, medication administration, nursing
12 judgment, comprehensive patient assessment, development of the
13 plan of care, or evaluation of care. A delegation of a nursing
14 intervention granted by a registered professional nurse shall
15 not be re-delegated to another.

16 (Source: P.A. 96-328, eff. 8-11-09; 97-423, eff. 1-1-12;
17 97-813, eff. 7-13-12.)

18 Section 90. The Nurse Practice Act is amended by adding
19 Section 50-15.15 as follows:

20 (225 ILCS 65/50-15.15 new)

21 Sec. 50-15.15. Clinical professional judgment.

22 (a) Performance of the scope of practice of a direct care
23 registered professional nurse requires the exercise of
24 professional judgment in the exclusive interests of the

1 patient. The exercise of such professional judgment,
2 unencumbered by the commercial or revenue-generation
3 priorities of a hospital, long term acute care hospital, or
4 ambulatory surgical treatment center or other employing entity
5 of a direct care registered professional nurse, is necessary
6 to ensure safe, therapeutic, effective, and competent
7 treatment of patients and is essential to protect the health
8 and safety of the people of Illinois.

9 (b) The exercise of professional judgment by a direct care
10 registered professional nurse in the performance of the scope
11 of practice of the registered professional nurse under Section
12 60-35 or the scope of practice of the advanced practice
13 registered nurse under Section 65-30 shall be provided in the
14 exclusive interests of the patient and shall not, for any
15 purpose, be considered, relied upon, or represented as a job
16 function, authority, responsibility, or activity undertaken in
17 any respect for the purpose of serving the business,
18 commercial, operational, or other institutional interests of
19 the employer.

20 (c) No hospital, long term acute care hospital, ambulatory
21 surgical treatment center, or other health care institution
22 shall adopt policies that:

23 (1) limit a direct care registered professional nurse
24 in performing duties that are part of the nursing process,
25 including full exercise of professional judgment in
26 assessment, planning, implementation and evaluation of

1 care; or

2 (2) limit a direct care registered professional nurse

3 in acting as a patient advocate in the exclusive interests

4 of the patient.

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New Act

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210 ILCS 85/10.10

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225 ILCS 65/50-15.15 new