

1 AN ACT in relation to 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
5 Staffing Requirements for Patient Safety Act.

6 Section 5. Definitions. In this Act:

7 "Appropriate State regulatory agency" or "agency" means
8 the State agency that licenses the affected health care
9 facility.

10 "Employee" means an individual employed by a health care
11 facility who is involved in direct patient care activities or
12 clinical services and who receives an hourly wage.

13 "Employer" means an individual, partnership, association,
14 or corporation or person or groups of persons acting directly
15 or indirectly in the interest of a health care facility.

16 "Health care facility" means any of the following
17 facilities:

18 (1) An institution, place, building, or agency that
19 (i) is required to be licensed under the Hospital
20 Licensing Act or is subject to the University of Illinois
21 Hospital Act or (ii) is privately owned and provides
22 mental health services.

23 (2) A hospital, mental health facility, or prison
24 health care unit maintained by the State, a unit of local
25 government, or any department or agency of the State or a
26 unit of local government.

27 "Nurse" means an advanced practice nurse, registered
28 professional nurse, or licensed practical nurse, practicing
29 under the scope of practice as licensed and defined in the
30 Nursing and Advanced Practice Nursing Act.

31 "Nurse executive or nurse administrator" means a

1 registered professional nurse responsible and accountable for
2 day-to-day operations related to nursing, including
3 development and review of the facility staffing plans,
4 implementation of patient classification systems, overseeing
5 of nurse staffing, and analysis of patient outcomes.

6 "Overtime" means work in excess of an agreed-to,
7 predetermined scheduled work shift not to exceed 12 hours, or
8 work in excess of 40 hours in one week, except in the case of
9 an unforeseen emergent circumstance when overtime is required
10 only as a last resort.

11 "Patient classification system" means a mechanism used by
12 a health care facility to determine and differentiate the
13 health care needs of all patients receiving care within the
14 facility.

15 "Unforeseen emergent circumstance" means a circumstance
16 in which the employer has no foreseeable control, as in the
17 instance of war, a national disaster, a declared state of
18 emergency, or another situation in which the health care
19 facility has no other option but to require that an employee
20 continue working. "Unforeseen emergent circumstance" does
21 not mean a situation in which the employer has reasonable
22 knowledge of a decreased facility staffing plan, including,
23 but not limited to, scheduled vacations, employee illness, or
24 increased patient census.

25 Section 10. Ensuring minimum nurse staffing requirements.

26 (a) A health care facility shall require each patient
27 care unit in the facility to meet or exceed minimum nurse
28 staffing requirements established for each work shift by an
29 assessment of patient health care needs conducted by a
30 registered professional nurse directly responsible for
31 patient care using the patient classification system under
32 Section 20 of this Act. The staffing requirement shall be
33 implemented through a staffing plan that is developed for

1 each patient care unit.

2 (b) The staffing plan shall be developed under the
3 direction of the health care facility's nurse administrator
4 or nurse executive. To determine the appropriate application
5 of the staffing plan, the nurse administrator or nurse
6 executive shall develop the staffing plan in collaboration
7 with registered professional nurses directly responsible for
8 patient care. The staffing plan shall be developed in a
9 manner that enables the patient care unit to meet or exceed
10 the nurse staffing requirements that are derived from the
11 computation used in the patient classification system.

12 (c) The staffing plan developed for each patient care
13 unit for each work shift must be consistent with acceptable
14 and prevailing standards of safe nursing care and with the
15 American Nurses Association's principles for nurse staffing.
16 The staffing plan must take into account factors including,
17 but not be limited to, all of the following:

18 (1) Acuity of patient's illnesses.

19 (2) Use of specialized equipment and technology in
20 providing patient care.

21 (3) Complexity of clinical judgment needed to
22 design, implement, and evaluate patient care plans.

23 (4) Ability of the patients to provide self-care.

24 (5) Patient care delivery systems at the facility.

25 (6) Health care facility-based patient outcome
26 indicators, as developed by nationally recognized nursing
27 organizations, including the American Nurses
28 Association.

29 (7) Educational needs of the patients and their
30 family members or others who may assist in the patients'
31 care.

32 (8) Cognitive needs of the patients.

33 (9) Risk management needs resulting from the
34 facility's record of malpractice and other instances.

1 (10) Functions necessary to support the delivery of
2 quality patient care.

3 (11) Clinical competencies required to meet the
4 specific needs of the patient populations.

5 (12) Experience level and education of the
6 facility's licensed nurses.

7 (13) State and federal laws and regulatory
8 requirements regarding patient care.

9 (14) State and federal labor laws and ratified
10 collective bargaining agreements, if applicable.

11 (15) Expected temporary vacancies for paid or unpaid
12 leave.

13 (16) Procedures for limiting patient census when
14 available nursing staff is not sufficient to meet patient
15 needs.

16 (17) Amount and degree of nursing interventions.

17 (18) Any other elements considered appropriate and
18 specified in rules adopted by the appropriate State
19 regulatory agency.

20 (d) Meeting the staffing requirements of this Section is
21 the minimum action that a health care facility must take.
22 The facility may employ additional registered professional
23 nurses to ensure that the facility's patients receive quality
24 health care.

25 (e) This Section does not apply to any facility
26 maintained by the Department of Corrections, the Department
27 of Human Services, or the Cook County Department of
28 Corrections.

29 Section 15. Patient classification committee.

30 (a) Each health care facility shall establish a
31 multi-disciplinary committee for the purpose of selecting the
32 patient classification system to be used in establishing
33 staffing requirements pursuant to Section 10 of this Act.

1 The facility shall appoint members of the committee in
2 accordance with the following:

3 (1) Fifty percent of the committee's membership
4 shall be comprised of administrative staff of the health
5 care facility.

6 (2) Fifty percent of the committee's members shall
7 be comprised of professionals providing direct care to
8 patients, provided that those professionals must be
9 registered nurses, physicians, and other health care
10 professionals providing direct health care to the
11 facility's patients.

12 (b) This Section does not apply to any facility
13 maintained by the Department of Corrections, the Department
14 of Human Services, or the Cook County Department of
15 Corrections.

16 Section 20. Patient classification system.

17 (a) The patient classification committee of a health
18 care facility shall select a patient classification system
19 that does all of the following:

20 (1) Computes staffing requirements that are
21 appropriate to ensure that all patients in the facility
22 receive quality health care according to an analysis of
23 their individual and aggregate needs.

24 (2) Specifies staffing requirements to be filled by
25 licensed nurses and other personnel utilized in the
26 provision of direct patient care or the support of other
27 unit activities. These staffing requirements shall be
28 specified to fulfill patient care needs under normal
29 circumstances and during unforeseen emergent
30 circumstances, which includes a circumstance in which the
31 absence of a licensed nurse or other personnel providing
32 direct care could not be foreseen.

33 (3) Includes methods to ensure the validity and

1 reliability of its projection of staffing requirements.

2 (4) Incorporates standards that are consistent with
3 acceptable and prevailing standards of safe nursing care
4 and with the American Nurses Association's principles for
5 nurse staffing.

6 (b) This Section does not apply to any facility
7 maintained by the Department of Corrections, the Department
8 of Human Services, or the Cook County Department of
9 Corrections.

10 Section 25. Internal review.

11 (a) Each health care facility's patient classification
12 committee shall develop an internal review mechanism for the
13 committee to use under this Section in evaluating whether the
14 facility's patient classification system results in
15 sufficient staffing requirements to meet the health care
16 needs of the facility's patients. The committee shall
17 develop a review mechanism that takes into account changes in
18 the characteristics of the facility's work environment, as
19 well as changes that may have occurred in the overall health
20 acuity level of the patients being treated in the facility.
21 Evaluation tools that may be used in the review mechanism
22 include the following:

23 (1) Patient outcome indicators that have been shown
24 to correlate with nurse staffing, as those indicators are
25 developed by nationally recognized nursing organizations.

26 (2) Acceptable and prevailing standards of safe
27 nursing care.

28 (3) Facility reports and analysis of incidents and
29 injuries to patients, nursing staff, and other personnel.

30 (4) Available reports and surveys of patient
31 satisfaction and nurse satisfaction that correlate to the
32 quality of nursing care provided in the facility.

33 (5) Criteria required by State or federal law for

1 assessing the quality of patient care provided by a
2 health care facility.

3 (6) American Nurses Credentialing Center Magnet
4 Hospital elements.

5 (7) Any other criteria the patient classification
6 committee considers appropriate.

7 (b) Not later than 6 months after the effective date of
8 this Act, each committee shall complete its development of
9 the internal review mechanism and conduct an internal review
10 of the patient classification system it has selected.
11 Thereafter, the committee shall conduct an internal review of
12 the system at least once each year.

13 (c) Whenever a committee determines that the patient
14 classification system that the committee has selected for a
15 facility no longer meets the staffing requirements necessary
16 to meet the health care needs of the facility's patients, the
17 committee shall select a different patient classification
18 system pursuant to this Section.

19 (d) This Section does not apply to any facility
20 maintained by the Department of Corrections, the Department
21 of Human Services, or the Cook County Department of
22 Corrections.

23 Section 30. Posting requirement.

24 (a) A health care facility shall make available in a
25 convenient location in the facility a monthly report that
26 describes the preceding month's staffing requirements. The
27 report shall compare the staffing requirements to the actual
28 staffing that occurred for that month. The facility shall
29 make the monthly report available to any interested party for
30 inspection and copying for at least 3 years.

31 (b) This Section does not apply to any facility
32 maintained by the Department of Corrections, the Department
33 of Human Services, or the Cook County Department of

1 Corrections.

2 Section 35. Overtime.

3 (a) No employee of a health care facility may have his
4 or her license, registration, or certification, as the case
5 may be, subjected to disciplinary action by an appropriate
6 State regulatory agency for a potential violation of a
7 regulating Act if the employee does not continue to work
8 after the end of the employee's designated, predetermined
9 shift if the following also occurs:

10 (1) the employee has not accepted an assignment to
11 work overtime; and

12 (2) the employee notifies the employee's supervisor
13 that he or she is unable to accept the overtime
14 assignment.

15 (b) No employee of a health care facility may be
16 compelled to work overtime if the employee is in such a
17 fatigued condition that he or she could pose a potential
18 danger or threat to the safety of patients under the
19 employee's care because of that fatigued condition.

20 (c) A health care facility may require an employee to
21 accept overtime in the case of an unforeseen emergent
22 circumstance as defined in Section 5 of this Act.

23 Section 40. Quality-of-care policies.

24 (a) In maintaining the quality of care provided by its
25 licensed nurses, a health care facility shall implement
26 policies to ensure all of the following:

27 (1) That the specific needs of various patient
28 populations determine the appropriate clinical
29 competencies required of the nurses practicing in that
30 area.

31 (2) That licensed nurses are given an appropriate
32 orientation to a patient care unit when first assigned to

1 the unit.

2 (3) That clinical support from a proficient licensed
3 nurse is readily available to a licensed nurse who may be
4 less proficient.

5 (b) The policies implemented under subsection (a) of this
6 Section shall be applied to a licensed nurse used by the
7 facility who is not considered part of the facility's regular
8 nursing staff, such as a supplemental licensed nurse or a
9 licensed nurse obtained from an agency that makes licensed
10 nurses available to employers on a temporary basis.

11 Section 45. Work environment. With respect to the work
12 environment created by a health care facility for its
13 licensed nurses and personnel who assist in the provision of
14 patient care, the facility must comply with all of the
15 following:

16 (1) The facility must implement policies that
17 reflect an organizational climate committed to filling in
18 a timely manner the positions of employment that have
19 been included in the facility's budget.

20 (2) The facility must employ a sufficient number of
21 employees to perform duties that are non-nursing
22 functions, such as housekeeping, clerical duties, and
23 administrative duties. The facility may not eliminate
24 such non-nursing positions as a means of complying with
25 this subsection if the result is that licensed nurses are
26 required to carry out the duties of the individuals whose
27 positions have been eliminated.

28 Section 50. Pilot programs.

29 (a) Alternative methods of ensuring minimum nurse
30 staffing requirements may be tested and evaluated. The
31 alternative methods must use clearly defined measurement
32 tools to ensure allocation of appropriate number of staff to

1 determine nursing care needs of patients. Alternative tools
2 or methods of measurements must be peer reviewed, provide
3 nursing coverage of patient needs, and be evaluated monthly
4 to determine whether the alternative method fulfills the
5 intent of this Act. Measurement tools that may be utilized
6 to determine the effectiveness of any pilot program must
7 include, but need not be limited to, the following:

8 (1) Patient outcome indicators as developed by
9 nationally recognized nursing organizations, such as the
10 American Nurses Association.

11 (2) American Nurses Credentialing Center Magnet
12 Hospital elements.

13 (3) Facility reports and analyses of incidents and
14 injuries to nursing staff and other health care
15 personnel.

16 (4) Surveys and reports of nursing staff.

17 (5) Other elements deemed appropriate and adopted in
18 rules by the appropriate State regulatory agency.

19 (b) If any pilot method of determining nurse staffing
20 fails to address patient needs and fails to provide adequate
21 nursing care with appropriate support for any 4-week period,
22 the program shall be disbanded and an appropriate staffing
23 plan and patient classification system must be instituted.

24 Section 55. Prohibitions.

25 (a) Except as provided in Section 60 of this Act, a
26 health care facility must do both of the following:

27 (1) Comply with the staffing requirements
28 established under Section 10 of this Act.

29 (2) Comply with the provisions of Sections 35 and 45
30 of this Act.

31 (b) If subdivisions (a)(1) and (a)(2) of this Section are
32 both violated in the same work shift, each violation is a
33 separate violation. If subdivisions (a)(1) and (a)(2) of

1 this Section are violated in different patient care units at
2 the same time, each violation is a separate violation.

3 (c) A nurse or other health care professional may file a
4 complaint with the Department of Public Health alleging a
5 violation of subdivision (a)(1) or (a)(2) by a privately
6 owned health care facility.

7 Section 60. Unforeseen emergent circumstance staffing
8 plan.

9 (a) Section 55 of this Act does not apply when a staffing
10 shortage occurs as a direct result of an unforeseen emergent
11 circumstance.

12 (b) A health care facility shall develop and implement
13 policies that establish mechanisms for rapid deployment of
14 personnel during an unforeseen emergent circumstance. The
15 policies must promote the identification and use of
16 appropriate mixes of nursing staff and other personnel.

17 Section 65. Penalties and sanctions.

18 (a) If the appropriate State regulatory agency
19 determines, after an investigation, that a violation of
20 subdivision (a)(1) or (a)(2) of Section 55 of this Act has
21 occurred, the agency shall impose a civil penalty against the
22 facility in accordance with subsection (b) of this Section.
23 In determining the amount of the civil penalty to be imposed,
24 the agency shall consider the severity of the violation, the
25 facility's efforts to correct the violation, whether the
26 violation has been corrected, and whether the facility's
27 failure to correct the violation is the result of a willful
28 disregard of the requirements of this Act.

29 (a-5) An investigation under subsection (a) must include
30 an investigation of (i) whether a patient classification
31 committee was created pursuant to Section 15 and (ii) whether
32 the committee was implementing staffing requirements as

1 required under this Act.

2 (b) In the case of a first violation, the appropriate
3 State regulatory agency shall impose a civil penalty in an
4 amount that is not less than \$2,000 for each week in which
5 the violation occurs. In the case of a subsequent violation,
6 for each day of the first week in which the violation occurs,
7 the agency shall impose a civil penalty in an amount that is
8 not less than \$8,000 and not more than \$15,000. During each
9 week thereafter, the agency shall impose a civil penalty for
10 each day of violation in an amount that is 3 times the amount
11 imposed per day in the immediately preceding week.

12 (c) A State regulatory agency may impose a civil penalty
13 under this Section only after notice to the facility and an
14 opportunity for the facility to be heard on the matter.

15 (d) The Attorney General may bring an action in the
16 circuit court to enforce the collection of any civil penalty
17 imposed under this Section.

18 (e) This Section applies only to privately owned health
19 care facilities.

20 Section 70. Injunctive relief.

21 (a) Through the Attorney General or a State's Attorney,
22 the Department of Public Health may apply for an order
23 enjoining any person from violating subdivision (a)(1) or
24 (a)(2) of Section 55 of this Act.

25 (b) On the filing of a verified petition, the court shall
26 conduct an expedited hearing on the petition, irrespective of
27 the position of the proceeding on the court's calendar. On a
28 showing that the violation has occurred, the court shall
29 grant an order enjoining the violation. In addition to
30 granting an order enjoining the violation, the court may do
31 either or both of the following:

32 (1) On a showing that a person's violation has been
33 willful, the court may issue an order terminating the

1 facility's authority to participate in any State-funded
2 program that reimburses the facility for providing health
3 care services.

4 (2) On a showing that a person's violation has
5 resulted in imminent danger of harm or death to a
6 patient, the court may issue an order requiring the
7 facility to close the patient care unit in which the
8 violation has occurred.

9 Section 75. Private right of action.

10 (a) Any person who suffers damage as a result of a
11 violation of this Act committed by an employer or an
12 employer's representative may bring an action against the
13 employer in the circuit court. Upon a finding that the
14 employer or the employer's representative committed a
15 violation of this Act, the court may award the plaintiff his
16 or her actual damages together with his or her reasonable
17 attorney's fees incurred in maintaining the action.

18 (b) In an action brought under this Section, any evidence
19 that an employee was required to work overtime in a manner
20 inconsistent with Section 35 of this Act creates a
21 presumption that the employee's employer committee a
22 violation of this Act. To rebut this presumption, the
23 employer must prove that an unforeseen emergent circumstance,
24 which required overtime work only as a last resort, existed
25 at the time the employee was required or compelled to work.

26 (c) This Section applies only to a health care facility
27 that is maintained by the State, a unit of local government,
28 or a department or agency of the State or a unit of local
29 government.

30 Section 80. Posting of Act summary. Every employer who
31 is subject to any provision of this Act must keep a summary
32 of this Act approved by the Director of Labor posted in a

1 conspicuous and accessible place in or about the premises
2 wherever any person subject to this Act is employed. The
3 Department of Labor must furnish copies of the summary on
4 request to employers, without charge.

5 Section 85. Adoption of rules. Each appropriate State
6 regulatory agency shall adopt rules, as each agency considers
7 necessary to implement this Act.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.